

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4
5 IN RE NATIONAL PRESCRIPTION | Case No. 17-MD-2804
6 |
7 OPIATE LITIGATION | Hon. Dan A. Polster
8 |
9 APPLIES TO ALL CASES |

10 - - -
11 Friday, November 16, 2018
12 - - -

13 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
14 CONFIDENTIALITY REVIEW
15 - - -

16
17 Videotaped deposition of CHAD DUCOTE, held
18 at the offices of Mitchell Williams,
19 4206 South J.B. Hunt Drive, Suite 200, Rogers,
20 Arkansas, commencing at 8:04 a.m., on the above
21 date, before Susan D. Wasilewski, Registered
22 Professional Reporter, Certified Realtime
23 Reporter and Certified Realtime Captioner.

24 - - -
25 GOLKOW LITIGATION SERVICES
 877.370.3377 ph | 917.591.5672 fax
 deps@golkow.com

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<p>1 APPEARANCES: 2 CARELLA, BYRNE, CECCHI, OLSTEIN, BRODY & AGNELLO, P.C. BY: ZACHARY S. BOWER, ESQUIRE MICHAEL A. INNES, ESQUIRE 5 Becker Farm Road Roseland, New Jersey 07068 (973) 994-1700 zbower@carellabyrne.com minnes@carellabyrne.com Representing Plaintiffs</p> <p>7 8 JONES DAY BY: TARA A. FUMERTON, ESQUIRE SCOTT B. ELMER, ESQUIRE 77 West Wacker Chicago, Illinois 60601 (312) 782-3939 tfumerton@jonesday.com selmer@jonesday.com Representing Walmart</p> <p>13 14 PELINI CAMPBELL & WILLIAMS LLC BY: CRAIG M. EOFF, ESQUIRE 8040 Cleveland Avenue NW, Suite 400 North Canton, Ohio 44720 (330) 305-6400 ceoff@pelini-law.com Representing Prescription Supply Inc.</p> <p>18 19 BARBER LAW FIRM BY: M. EVAN STALLINGS, ESQUIRE 425 West Capitol Avenue, Suite 3400 Little Rock, Arkansas 72201 (501) 372-6175 estallings@barberlawfirm.com Representing Cardinal Health</p>	<p>1 --- 2 I N D E X 3 --- 4 Testimony of: CHAD DUCOTE Page 5 DIRECT EXAMINATION BY MR. INNES..... 7 6 CROSS-EXAMINATION BY MS. FUMERTON..... 293 7 8 E X H I B I T S 9 (Attached to transcript)</p> <p>10 CHAD DUCOTE DEPOSITION EXHIBITS PAGE 11 Walmart - LinkedIn Web Page - Chad Ducote 19 12 Ducote Exhibit 1 13 Walmart - E-mail - Subject: REVIEW - 63 14 Ducote Interim SOM Processes 15 Exhibit 2 WMT_MDL_000022832 through 22835 16 Walmart - E-mail - Subject: Wal-Mart 69 17 Ducote Stores East, LP, Bentonville, AR 18 Exhibit 3 - 1st Corporate P&P Review Report 19 WMT_MDL_000016251 through 16254 20 Walmart - E-mail - Subject: Per your call 73 21 Ducote WMT_MDL_000019447 and 19448 22 Exhibit 4 23 Walmart - E-mail - Subject: Som position 92 24 Ducote WMT_MDL_000016686 and 16687 25 Exhibit 5 26 Walmart - E-mail - Subject: SOM overview 136 27 Ducote WMT_MDL_000009158 through 9160 28 Exhibit 6 29 Walmart - E-mail - Subject: SOM Pilot at 145 30 Ducote DC 6045 31 Exhibit 7 WMT_MDL_000008147 through 8148 32</p>
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<p style="text-align: right;">Page 6</p> <p>1 - - -</p> <p>2 THE VIDEOGRAPHER: We are now on the record.</p> <p>3 My name is Dan Lawlor. I'm a videographer of</p> <p>4 Golkow Litigation Services.</p> <p>5 Today's date is November 16, 2018, and the</p> <p>6 time is 8:04 a.m.</p> <p>7 This video deposition is being held in</p> <p>8 Rogers, Arkansas, in the matter of National</p> <p>9 Prescription Opiate Litigation, MDL Number 2804.</p> <p>10 The deponent is Chad Ducote.</p> <p>11 Counsel will be noted on the stenographic</p> <p>12 record.</p> <p>13 The court reporter is Susan Wasilewski and</p> <p>14 will now swear in the witness.</p> <p>15 THE COURT REPORTER: Sir, would you raise</p> <p>16 your right hand.</p> <p>17 Do you solemnly swear or affirm the</p> <p>18 testimony you're about to give will be the truth,</p> <p>19 the whole truth, and nothing but the truth?</p> <p>20 THE WITNESS: Yes.</p> <p>21 THE COURT REPORTER: Thank you.</p> <p>22 CHAD DUCOTE, called as a witness by the</p> <p>23 Plaintiffs, having been duly sworn, testified as</p> <p>24 follows:</p> <p>25</p>	<p style="text-align: right;">Page 8</p> <p>1 start here. Have you ever sat for a deposition</p> <p>2 before?</p> <p>3 A. Years ago.</p> <p>4 Q. Years ago. So you might know the ground</p> <p>5 rules. I'll go over some basic ones. If I ask a</p> <p>6 question you don't understand, please let me know</p> <p>7 and I'll try to rephrase it.</p> <p>8 A. Okay.</p> <p>9 Q. If you do answer my question, I'll assume</p> <p>10 you understand the question.</p> <p>11 Your answers must be audible, spoken. The</p> <p>12 court reporter can't take down a nod, so we just</p> <p>13 need to have a spoken answer.</p> <p>14 You said you -- you testified in a</p> <p>15 deposition years ago?</p> <p>16 A. Yes.</p> <p>17 Q. Do you recall what that was?</p> <p>18 A. It was an employment issue.</p> <p>19 Q. And was that related to your employment at</p> <p>20 Walmart?</p> <p>21 A. Yes.</p> <p>22 Q. And what particularly did that apply to?</p> <p>23 A. It was a litigation regarding an individual</p> <p>24 that was terminated.</p> <p>25 Q. So were you a plaintiff or a defendant in</p>
<p style="text-align: right;">Page 7</p> <p>1 DIRECT EXAMINATION</p> <p>2 BY MR. INNES:</p> <p>3 Q. Good morning, Mr. Ducote. My name is</p> <p>4 Michael Innes. I represent the plaintiffs in this</p> <p>5 case. Thank you for being here today. Thank you</p> <p>6 for starting a little bit earlier than usual. I do</p> <p>7 appreciate that.</p> <p>8 Could you state your full name for the</p> <p>9 record.</p> <p>10 A. Full name is Chad Edward Ducote.</p> <p>11 Q. What is your current occupation?</p> <p>12 A. Current occupation is Division Vice</p> <p>13 President for Supply Chain.</p> <p>14 Q. And for what company?</p> <p>15 A. Walmart.</p> <p>16 Q. Thank you.</p> <p>17 You understand that you're under oath,</p> <p>18 right?</p> <p>19 A. Yes.</p> <p>20 Q. And are you taking any medication or is</p> <p>21 there any other reason that would interfere with</p> <p>22 your ability to answer my questions fully and</p> <p>23 truthfully today?</p> <p>24 A. No.</p> <p>25 Q. Some basic ground rules -- well, let me</p>	<p style="text-align: right;">Page 9</p> <p>1 the case?</p> <p>2 A. Walmart was who was being sued.</p> <p>3 Q. Walmart was being sued?</p> <p>4 A. Yes.</p> <p>5 Q. And you were a witness for Walmart?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. Did that have anything to do with</p> <p>8 Schedule II narcotics?</p> <p>9 A. No.</p> <p>10 Q. Did it have anything to do with dispensing?</p> <p>11 A. No.</p> <p>12 Q. Who are the people seated with you today?</p> <p>13 A. Tara. I'm sorry, I do not recall --</p> <p>14 MS. FUMERTON: He's not going to be</p> <p>15 offended.</p> <p>16 A. Paul? No. Sorry.</p> <p>17 The attorneys that represent me.</p> <p>18 Q. Fair question. And I'm sorry, is the woman</p> <p>19 at the end of the table --</p> <p>20 A. Jennifer.</p> <p>21 MS. FUMERTON: I can handle it. Jennifer</p> <p>22 Bechet, who was in-house counsel at Walmart.</p> <p>23 BY MR. INNES:</p> <p>24 Q. Mr. Ducote, what did you do to prepare for</p> <p>25 this deposition today?</p>

<p style="text-align: right;">Page 10</p> <p>1 A. I had three meetings with attorneys.</p> <p>2 Q. How long were those meetings?</p> <p>3 A. They ranged from four hours to eight to nine</p> <p>4 hours.</p> <p>5 Q. And when were those meetings?</p> <p>6 A. One was yesterday, one was the day before</p> <p>7 and another was last either Thursday or Friday. I</p> <p>8 can't recall exactly.</p> <p>9 Q. Who was present at those meetings?</p> <p>10 A. The one that was last week was via a Zoom</p> <p>11 videoconference. I don't remember everyone who was</p> <p>12 present. And Tara was present on that one last</p> <p>13 week. The meeting this week, Tara was present,</p> <p>14 Jennifer was present and there were other attorneys</p> <p>15 who were present.</p> <p>16 Q. Were there any non-attorneys who were</p> <p>17 present?</p> <p>18 A. No.</p> <p>19 Q. Were the attorneys all from either Walmart</p> <p>20 in-house counsel or Jones Day?</p> <p>21 A. There were a combination of both.</p> <p>22 Q. But there were no attorneys from an entity</p> <p>23 other than Jones Day or Walmart?</p> <p>24 A. No.</p> <p>25 Q. Did you review any documents?</p>	<p style="text-align: right;">Page 12</p> <p>1 Yes-or-no question.</p> <p>2 MS. FUMERTON: Yeah, but how is that not</p> <p>3 going to be privileged information?</p> <p>4 MR. INNES: It's a yes or no.</p> <p>5 MS. FUMERTON: I understand. But I think to</p> <p>6 the extent you're asking about what documents he</p> <p>7 reviewed while he was with counsel --</p> <p>8 MR. INNES: So you're objecting to the fact</p> <p>9 there was a court document?</p> <p>10 MS. FUMERTON: No, I'm objecting to the fact</p> <p>11 that you were asking what documents he was</p> <p>12 reviewing with counsel.</p> <p>13 BY MR. INNES:</p> <p>14 Q. Did you review any documents -- I apologize.</p> <p>15 I may have asked this already.</p> <p>16 Did you review any court documents outside</p> <p>17 the presence of counsel?</p> <p>18 A. Just state it one more time to make sure I</p> <p>19 fully understand.</p> <p>20 Q. Did you review any court documents outside</p> <p>21 the presence of counsel?</p> <p>22 A. No, not that I'm aware of, that there were</p> <p>23 any court documents.</p> <p>24 Q. Have you read the complaint in this case?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 11</p> <p>1 A. Yes.</p> <p>2 Q. Did you review documents with counsel in</p> <p>3 those meetings?</p> <p>4 A. Could you restate that.</p> <p>5 Q. Did you review documents with counsel in</p> <p>6 those meetings?</p> <p>7 A. You're referring to the attorneys that were</p> <p>8 present?</p> <p>9 Q. Yes.</p> <p>10 A. Yes.</p> <p>11 Q. Did you review any documents for preparation</p> <p>12 for the deposition outside of counsel?</p> <p>13 A. No.</p> <p>14 Q. Did you review any deposition or trial</p> <p>15 testimony?</p> <p>16 A. No.</p> <p>17 Q. Did you review any court documents?</p> <p>18 MS. FUMERTON: Objection. I don't think</p> <p>19 that is going to -- are you asking outside of the</p> <p>20 questioning of while we were in the meeting or</p> <p>21 with the attorneys?</p> <p>22 MR. INNES: In general.</p> <p>23 BY MR. INNES:</p> <p>24 Q. The question is did you review any court</p> <p>25 documents in preparation for today's deposition?</p>	<p style="text-align: right;">Page 13</p> <p>1 Q. Have you looked at your own personal</p> <p>2 documents or electronic files, that kind of</p> <p>3 documents, that might be relevant to this litigation</p> <p>4 or might refresh your recollection?</p> <p>5 MS. FUMERTON: And give just a second to</p> <p>6 object.</p> <p>7 Again, I'm going to have a standing</p> <p>8 objection if you're asking to anything that we</p> <p>9 had reviewed during our meetings with counsel.</p> <p>10 But if you're asking about what he may have</p> <p>11 reviewed outside of meetings with counsel or at</p> <p>12 the direction of counsel, I have no objection</p> <p>13 A. Could you restate that question, then.</p> <p>14 Q. Have you looked at any of your own personal</p> <p>15 paper or electronic files to find documents that</p> <p>16 might be relevant to this litigation or that might</p> <p>17 refresh your recollection?</p> <p>18 MS. FUMERTON: The question is outside of</p> <p>19 the context of our review.</p> <p>20 THE WITNESS: Okay. So during the context</p> <p>21 of the question --</p> <p>22 MR. INNES: That's not the question.</p> <p>23 MS. FUMERTON: I'm objecting to the question</p> <p>24 if you're not -- if asking him whether he</p> <p>25 reviewed documents in the presence of counsel.</p>

<p style="text-align: right;">Page 14</p> <p>1 MR. INNES: Are you instructing him to not 2 answer the question? 3 MS. FUMERTON: Yes, if that's your question. 4 I thought you were limiting it. 5 I mean, it's a compound -- you asked a 6 compound question, first of all, right. So if 7 you want to break up the question, then I think 8 that there are parts that could potentially -- 9 you can ask the question how you want, but that's 10 a compound question and, as asked, it's asking 11 for potentially privileged information. If you 12 want to limit it in another way, there may be a 13 nonobjectionable question you can ask. 14 BY MR. INNES: 15 Q. Outside meetings with counsel, have you 16 reviewed any documents to refresh your recollection 17 relevant to this case? 18 A. I did not take any documents and review 19 outside of the meetings with counsel. 20 Q. Have you found any documents in your own 21 personal files that are relevant to this case? 22 MS. FUMERTON: Objection; form. 23 A. Could you restate it? 24 Q. Have you identified any documents in your 25 possession that are relevant to this case?</p>	<p style="text-align: right;">Page 16</p> <p>1 you identified any documents that are relevant to 2 this case? 3 A. The answer to that question, the one that 4 you're asking, is no. 5 MR. INNES: Can I short-circuit this? Can I 6 get a representation from you that all documents 7 that he had reviewed and provided to you in this 8 course of this litigation have been produced or 9 have been recorded as privileged? 10 MS. FUMERTON: Well, no. So it would be 11 only all relevant documents subject to our other 12 objections. 13 MR. INNES: Okay. 14 BY MR. INNES: 15 Q. Did you speak with any representative, any 16 other defendant in this case, prior to your 17 deposition? 18 A. Could you repeat it. 19 Q. Sorry, I was going too fast. I'll break it 20 down. 21 A. Okay. 22 Q. Prior to today, did you speak with any 23 representative from any other defendant in this case 24 regarding today's deposition? 25 A. Just for my clarity, a defendant, I would</p>
<p style="text-align: right;">Page 15</p> <p>1 MS. FUMERTON: And again I'm going to object 2 to the question to the extent you're asking about 3 any actions that were taken at the direction of 4 counsel. If you're asking what he independently 5 did, you can answer the question. 6 A. I'm a little confused on what the question 7 is, actually, if you could clarify. 8 Q. That's because multiple people are asking 9 questions. 10 So my question is did you review any -- I'm 11 sorry. Did you -- strike that. 12 Did you identify any documents in your 13 preparation for today's deposition that are relevant 14 to this case? 15 MS. FUMERTON: Objection; form. It has to 16 be outside of meetings with counsel. So outside 17 meetings with counsel -- I'm not trying to be 18 difficult, but we're not going to answer as to 19 what questions -- any question about what he 20 reviewed while in our meetings with counsel. 21 If you're asking outside of that, that's a 22 different situation. 23 MR. INNES: Outside. 24 BY MR. INNES: 25 Q. Outside of your meetings with counsel, have</p>	<p style="text-align: right;">Page 17</p> <p>1 be -- who is a defendant, just to make sure I have 2 that clear? 3 Q. Sure. For instance, Purdue. 4 A. Okay. So restate the question now that I'm 5 clear on "defendant." 6 Q. Did you speak with anyone from Purdue Pharma 7 prior to your deposition today -- 8 MS. FUMERTON: Objection. 9 BY MR. INNES: 10 Q. -- regarding this case? 11 A. No. 12 Q. Did you speak with anyone from Cardinal 13 Health prior -- same question. 14 Did you speak with anyone from Cardinal 15 Health prior to your deposition today regarding this 16 case? 17 A. No. 18 Q. Are you familiar with who the defendants are 19 in this case? 20 A. No, not completely. 21 Q. We're going -- we'll circle back to this 22 question. 23 A. Okay. 24 Q. Did you speak with anyone other than counsel 25 prior to the deposition today regarding this case?</p>

<p style="text-align: right;">Page 18</p> <p>1 A. They had -- yes, but not regarding the case. 2 About the deposition, that I would not be at work 3 during the time period, that I was going to be out. 4 Is that the question you're asking me or am 5 I confused on the question? 6 Q. I can clarify. 7 A. Okay. 8 Q. Did you speak with anyone other than counsel 9 regarding the subject matter of this case prior to 10 today's deposition? 11 A. No. 12 Q. And I'm not -- 13 A. No. 14 Q. No? 15 A. I did not. Just that I was going to be in a 16 deposition and unavailable. 17 Q. I understand. 18 MS. FUMERTON: And we're doing okay but 19 let's just -- make sure he gets his whole 20 question out before he answers. We're talking 21 over each other slightly. 22 THE WITNESS: I thought he was finished with 23 his question. 24 MS. FUMERTON: No, that's better. Just give 25 a slight pause.</p>	<p style="text-align: right;">Page 20</p> <p>1 BY MR. INNES: 2 Q. So I'm handing you what's been marked as 3 Plaintiff Exhibit 1. 4 Q. Take your time, review the document, and 5 when you're done, I'll ask you some questions. 6 A. I'm done. 7 Q. Thank you. 8 Mr. Ducote, do you recognize this document? 9 A. Yes. 10 Q. Is this -- is this document something that 11 you generated? 12 A. At the -- 13 MS. FUMERTON: Objection; form. 14 A. Okay. Could you restate it to make sure 15 I've got the question correct. 16 Q. Do you not understand the question? 17 A. Just restate it just to make sure I heard 18 it. 19 Q. Is this a document that you generated? 20 MS. FUMERTON: Same objection. 21 BY MR. INNES: 22 Q. I'll strike that. 23 Is this your LinkedIn page? 24 A. Yes. 25 Q. When did you last update your LinkedIn page?</p>
<p style="text-align: right;">Page 19</p> <p>1 BY MR. INNES: 2 Q. Did you speak with Mr. Abernathy at all 3 regarding this case? 4 A. I would say no. I do speak to Jeff every so 5 often, but I don't recall ever speaking to him about 6 this case. 7 THE COURT REPORTER: I'll get you a sheet 8 going here. 9 Q. Mr. Ducote, we're just going to mark an 10 exhibit and then show it to you. The court reporter 11 is just marking my exhibit tabs for me. 12 A. So when you do state it to me, do I have to 13 state anything about the exhibit number? 14 Q. We'll go through that in a minute. 15 A. Okay. 16 MS. FUMERTON: No, you don't need to -- he's 17 asking the question. You don't really have to 18 say anything about anything other than I want a 19 break or I want to talk to Tara, unless he asks 20 you a question. He has to handle the documents. 21 BY MR. INNES: 22 Q. And if you do want a break at any time, 23 please let me know. We'll go off the record. 24 (Ducote Exhibit 1 was marked for 25 identification.)</p>	<p style="text-align: right;">Page 21</p> <p>1 A. I do not recall exactly. 2 Q. Would you say that this is a -- the current 3 version of your LinkedIn page? 4 A. The current version, as I'm aware of it, and 5 LinkedIn does at times update things, I find, that 6 didn't necessarily I did. There may be a word or 7 two change, but the content, the majority of it is. 8 Q. Okay. So you graduated from the University 9 of Louisiana Monroe with a Bachelor of Science in 10 Pharmacy? 11 A. Yes. 12 Q. And what year was that? 13 A. That was 1997. 14 Q. What is a Bachelor of Science in Pharmacy 15 exactly? 16 A. There are two degrees that qualify you to 17 become a pharmacist in most states. It's either a 18 bachelor of science or Docket of Pharmacy. I went 19 to a school that offered a bachelor of science 20 degree. 21 Q. So you obtained a bachelor of science 22 degree, and that would allow you in some states to 23 become a licensed pharmacist? 24 A. Yes, that's correct. 25 Q. And as part of your studies did you take any</p>

<p style="text-align: right;">Page 22</p> <p>1 classes on Schedule II narcotics?</p> <p>2 A. Not specifically Schedule II. There are</p> <p>3 classes about pharmacy law that encompass that, but</p> <p>4 it wasn't narrowly just Schedule II narcotics.</p> <p>5 Q. Did you take pharmacy law classes?</p> <p>6 A. Yes.</p> <p>7 Q. Did the pharmacy law classes cover the</p> <p>8 Controlled Substances Act?</p> <p>9 A. I don't recall specifically if it -- the</p> <p>10 Controlled Substances Act covered.</p> <p>11 Q. Were -- and do you recall if any other --</p> <p>12 any federal regulations related to the sale of</p> <p>13 pharmaceuticals were covered during your classes?</p> <p>14 A. Yes. Yes.</p> <p>15 Q. And what were those statutes or regulations</p> <p>16 in particular?</p> <p>17 A. I don't remember the exact regulations, but</p> <p>18 what was covered were basically what -- how the drug</p> <p>19 approval process worked, how the FDA worked to get</p> <p>20 to a legend drug.</p> <p>21 Q. Okay. Did you cover any statutes,</p> <p>22 regulations, laws, that would cover the sale or</p> <p>23 distribution -- strike that -- cover the sale of</p> <p>24 pharmaceuticals?</p> <p>25 MS. FUMERTON: Objection to form.</p>	<p style="text-align: right;">Page 24</p> <p>1 Master's of Science in Pharmacy Administration,</p> <p>2 Pharmacy Policy and Regulatory Affairs; is that</p> <p>3 correct?</p> <p>4 A. Yes.</p> <p>5 Q. During your studies at the University of</p> <p>6 Florida to obtain that degree, did you take any</p> <p>7 classes dealing with the Controlled Substances Act?</p> <p>8 A. Yes.</p> <p>9 Q. And what were those classes?</p> <p>10 A. I do not recall the specific classes, but it</p> <p>11 was a topic that was covered in at least one of the</p> <p>12 classes.</p> <p>13 Q. Was it a pharmacy law class?</p> <p>14 A. I wouldn't characterize it as pharmacy law.</p> <p>15 It was more just general here's a category and</p> <p>16 here's topics. I wouldn't say there was a class</p> <p>17 that was law and that's what was covered. I was</p> <p>18 just part of a class.</p> <p>19 Q. What was the focus of your master's degree?</p> <p>20 A. The focus for myself of why I went into that</p> <p>21 program was really the drug approval process.</p> <p>22 Q. What's the drug approval process?</p> <p>23 A. Really, how a drug goes from being</p> <p>24 developed, the initial clinical trials, how it's</p> <p>25 tested, how it's marketed, goes through patents and</p>
<p style="text-align: right;">Page 23</p> <p>1 A. I thought you were going to reask the</p> <p>2 question. I'm sorry. Could you state it again.</p> <p>3 Q. So one of the ground rules I failed to</p> <p>4 mention is your counsel can interpose an objection</p> <p>5 at any time. If she interposes an objection, you</p> <p>6 can still answer so long as you understand the</p> <p>7 question. That's my primary ground rules. If you</p> <p>8 understand the question, please answer it. If you</p> <p>9 don't, I'll do my best to rephrase it.</p> <p>10 A. I was aware of that. It just seemed as</p> <p>11 though you were going to reask the question. I</p> <p>12 apologize. The hesitation caught me off guard.</p> <p>13 Q. No problem. We'll feel this out as we go.</p> <p>14 A. Okay. So maybe once again could you just</p> <p>15 ask that question.</p> <p>16 Q. Sure.</p> <p>17 In your studies at the University of</p> <p>18 Louisiana at Monroe to obtain your Bachelor of</p> <p>19 Science in Pharmacy, did you study laws or</p> <p>20 regulations that would cover the distribution of</p> <p>21 pharmaceuticals?</p> <p>22 A. I do not recall specifically if that was in</p> <p>23 the class or not.</p> <p>24 Q. Okay. After you graduated in 1997, you went</p> <p>25 to the University of Florida where you obtained a</p>	<p style="text-align: right;">Page 25</p> <p>1 things of that nature. That's what my focus was</p> <p>2 during that time period.</p> <p>3 Q. So is it fair to say your studies were</p> <p>4 limited to research and development through the</p> <p>5 patent process?</p> <p>6 MS. FUMERTON: Objection; form.</p> <p>7 A. That was the main part of the course. I</p> <p>8 mean, there are other subcourses in it, but the</p> <p>9 majority of the coursework was around FDA drug</p> <p>10 approval.</p> <p>11 Q. So it's my understanding of the</p> <p>12 pharmaceutical industry that a drug is developed,</p> <p>13 drug goes through regulatory process for approval,</p> <p>14 and then that drug is manufactured, and then that</p> <p>15 drug is sold to the public.</p> <p>16 I'd like to focus on the last piece of that.</p> <p>17 Did you take classes dealing with the sale of drugs</p> <p>18 to the general public?</p> <p>19 MS. FUMERTON: Objection; form.</p> <p>20 A. I really couldn't answer that question</p> <p>21 because it's such a broad question. Could you</p> <p>22 narrow the question potentially?</p> <p>23 Q. Sure.</p> <p>24 So you would agree that a pharmaceutical</p> <p>25 company develops a drug, correct?</p>

<p style="text-align: right;">Page 26</p> <p>1 A. Yes.</p> <p>2 Q. And they're in the business of manufacturing</p> <p>3 drugs?</p> <p>4 MS. FUMERTON: Objection; form.</p> <p>5 A. Some do, some don't.</p> <p>6 Q. And then you'd agree that those</p> <p>7 manufacturers oftentimes sell those drugs to the</p> <p>8 general public?</p> <p>9 MS. FUMERTON: Objection; form.</p> <p>10 A. The manufacturers -- the way you're asking</p> <p>11 the question, I would say manufacturers, no, do not</p> <p>12 sell to the general public, if that's the question</p> <p>13 you're asking.</p> <p>14 Q. Fair point.</p> <p>15 A manufacturer puts a drug or a pill into</p> <p>16 the marketplace that can be prescribed to a patient;</p> <p>17 is that a fair statement?</p> <p>18 A. Yes.</p> <p>19 MS. FUMERTON: Objection; form.</p> <p>20 A. Yes.</p> <p>21 Q. During your studies either at the University</p> <p>22 of Louisiana Monroe for your bachelor of pharmacy or</p> <p>23 your studies at University of Florida for your</p> <p>24 master's and --</p> <p>25 Did you study any of the laws or regulations</p>	<p style="text-align: right;">Page 28</p> <p>1 individuals.</p> <p>2 My question for you is what are those --</p> <p>3 what were those regulations or laws that you've</p> <p>4 studied?</p> <p>5 MS. FUMERTON: Objection; form.</p> <p>6 A. I could not tell you the specific ones.</p> <p>7 Q. Okay. Controlled Substances Act was one of</p> <p>8 them, perhaps?</p> <p>9 A. Earlier, when you asked the question if that</p> <p>10 was covered in a class, it was covered in a class.</p> <p>11 Q. What's your understanding of the Controlled</p> <p>12 Substances Act generally?</p> <p>13 A. It is a very broad question.</p> <p>14 Q. What's your understanding of the Controlled</p> <p>15 Substances Act as it applies to Schedule II or</p> <p>16 Schedule III narcotics?</p> <p>17 MS. FUMERTON: Objection; form.</p> <p>18 A. Just restate one more time. I think I</p> <p>19 understood what you said but one more time.</p> <p>20 Q. What's your understanding of the Controlled</p> <p>21 Substances Act as it applies to Schedule II</p> <p>22 narcotics?</p> <p>23 A. Okay. The way I understood your question is</p> <p>24 the Controlled Substance Act gives some guidelines</p> <p>25 as far as how a drug is scheduled, and that's the</p>
<p style="text-align: right;">Page 27</p> <p>1 that governed the prescription -- I'm sorry, the</p> <p>2 dispensing of a drug to a patient?</p> <p>3 A. Could you restate the question for me?</p> <p>4 Q. Did you ever study laws or regulations</p> <p>5 pertaining to the dispensing of drugs to</p> <p>6 individuals?</p> <p>7 MS. FUMERTON: Objection; form.</p> <p>8 A. The way I understand your question, the</p> <p>9 answer would be yes.</p> <p>10 Q. And what -- and what were those laws or</p> <p>11 regulations?</p> <p>12 A. Most of those -- most of those laws and</p> <p>13 regulations relate around state -- state</p> <p>14 requirements such as -- I'm struggling to remember</p> <p>15 exact details but, you know, basically that the</p> <p>16 prescription -- that has been a long time ago.</p> <p>17 Could you -- I'm sorry to ask you to restate</p> <p>18 that question. Could you restate it?</p> <p>19 Q. Did you ever study laws or regulations</p> <p>20 pertaining to dispensing drugs to individuals?</p> <p>21 MS. FUMERTON: Objection; form.</p> <p>22 Q. I'm sorry, that was one question above.</p> <p>23 You've testified that you did study -- your</p> <p>24 testimony today is you have studied laws and</p> <p>25 regulations pertaining to the dispensing of drugs to</p>	<p style="text-align: right;">Page 29</p> <p>1 basic premise around Schedule II. It gives a</p> <p>2 different guidance on how the drug should be</p> <p>3 scheduled and if a drug meets that criteria, it's</p> <p>4 scheduled into a Schedule II.</p> <p>5 Q. Following the University of Florida, you</p> <p>6 went on to Stetson University where you obtained</p> <p>7 your Master's of Business Administration; is that</p> <p>8 correct?</p> <p>9 A. That's correct.</p> <p>10 Q. What was the focus of your studies at</p> <p>11 Stetson University?</p> <p>12 A. General business with more a focus on</p> <p>13 finance.</p> <p>14 Q. Finance as it relates to the pharmaceutical</p> <p>15 industry?</p> <p>16 A. They did cover pharmaceutical industry</p> <p>17 finance, but it was broader. It was just finance in</p> <p>18 general, how things such as -- if I recall</p> <p>19 correctly, Disney, since they are near Disney's main</p> <p>20 campus in Orlando, and a few other companies.</p> <p>21 Q. Orlando would be a fun town to go to school</p> <p>22 in.</p> <p>23 A. Yeah.</p> <p>24 Q. Did you study logistics at Stetson?</p> <p>25 A. There was a course that did cover supply</p>

<p style="text-align: right;">Page 30</p> <p>1 chain. It covered it, from what I recall, two</p> <p>2 sides, technology systems and there were just basic</p> <p>3 math of supply chain.</p> <p>4 Q. And to be clear, you were enrolled in that</p> <p>5 class?</p> <p>6 A. Could you -- say that again.</p> <p>7 Q. You enrolled in that class?</p> <p>8 MS. FUMERTON: Objection; form.</p> <p>9 A. There were specific courses you had to take.</p> <p>10 It wasn't an option. It was -- I couldn't tell you</p> <p>11 the exact title of the course, but the premise of it</p> <p>12 was basically technology.</p> <p>13 Q. Yeah. To be clear, I'm not asking for the</p> <p>14 exact title or the level number.</p> <p>15 A. Okay.</p> <p>16 Q. Those can be long in a course book. What</p> <p>17 I'm asking -- and I want to be clear -- is that</p> <p>18 course offered at Stetson?</p> <p>19 A. Yes.</p> <p>20 Q. And you sat in a classroom at Stetson?</p> <p>21 A. Potentially not. Some of these courses were</p> <p>22 online. So some were actually I had to go to</p> <p>23 Stetson. Some were online. That one could have</p> <p>24 been online.</p> <p>25 Q. Do you recall viewing that class online?</p>	<p style="text-align: right;">Page 32</p> <p>1 A. Yes.</p> <p>2 Q. You then rose to the level of manager of</p> <p>3 pharmacy recruiting June 1999 to August 2002, also</p> <p>4 at Walmart?</p> <p>5 A. Yes.</p> <p>6 Q. You then moved to divisional compliance</p> <p>7 director, also at Walmart, in August 2004?</p> <p>8 A. You skipped one role, but yes.</p> <p>9 Q. I'm sorry. I did.</p> <p>10 You were the director of training and</p> <p>11 development, also at Walmart, from August 2002 to</p> <p>12 August 2004?</p> <p>13 A. Yes.</p> <p>14 Q. Thank you for correcting me on that.</p> <p>15 Then you became a divisional compliance</p> <p>16 director from August 2004, for about 18 years, to</p> <p>17 July 2010; is that right?</p> <p>18 MS. FUMERTON: No. Objection; form and to</p> <p>19 the math, I guess.</p> <p>20 BY MR. INNES:</p> <p>21 Q. I'm just reading the document.</p> <p>22 MS. FUMERTON: I think that this can be</p> <p>23 easily clarified.</p> <p>24 A. Yes, that's -- I was going to clarify. It</p> <p>25 was six years. The LinkedIn profile did some odd</p>
<p style="text-align: right;">Page 31</p> <p>1 A. That, I do not recall exactly.</p> <p>2 Q. Do you recall sitting in a classroom for</p> <p>3 that class?</p> <p>4 A. I don't recall. I do -- if I -- it most</p> <p>5 likely was online for that course. I just don't</p> <p>6 recall exactly.</p> <p>7 Q. What grade did you get in that class?</p> <p>8 A. An A. I do recall that.</p> <p>9 Q. That's good. You don't recall going to</p> <p>10 class, but you got an A. I wish I could have done</p> <p>11 that.</p> <p>12 A. I just recall. I think I've made As in all</p> <p>13 the courses.</p> <p>14 MS. FUMERTON: Easy answer, then.</p> <p>15 BY MR. INNES:</p> <p>16 Q. Let's continue right up the page here.</p> <p>17 A. Okay.</p> <p>18 Q. You were a pharmacy intern, cashier, cart</p> <p>19 pusher, sales associate, unloader from February '92</p> <p>20 to December '97.</p> <p>21 Was that at Walmart?</p> <p>22 A. Yes.</p> <p>23 Q. You then went to be a pharmacist or pharmacy</p> <p>24 manager from '97 -- December '97 to June 1999, also</p> <p>25 at Walmart?</p>	<p style="text-align: right;">Page 33</p> <p>1 math on that.</p> <p>2 Q. To be clear, divisional compliance officer</p> <p>3 at Walmart from July 2004 to July 2010?</p> <p>4 A. Yes.</p> <p>5 Q. And what were your duties as a divisional</p> <p>6 compliance director?</p> <p>7 A. In that role, I was responsible for</p> <p>8 Louisiana, Mississippi, and Tennessee, that</p> <p>9 territory, and it was operational compliance, which</p> <p>10 is really more some auditing functions.</p> <p>11 Q. What do you mean by auditing functions?</p> <p>12 A. We would look at things such as food safety</p> <p>13 to make sure that our stores -- we -- our stores</p> <p>14 have a great deal of -- great deal of different</p> <p>15 types of products that we prepare, so we would go in</p> <p>16 to make sure they were properly preparing food</p> <p>17 products, things of that nature.</p> <p>18 Q. So in that role did you deal with</p> <p>19 pharmaceuticals?</p> <p>20 A. There was a time where we did.</p> <p>21 Q. And within that time did you deal with</p> <p>22 Schedule II narcotics?</p> <p>23 MS. FUMERTON: Objection; form.</p> <p>24 A. Not specifically with Schedule II narcotics.</p> <p>25 Q. Did you do -- did you deal with Schedule III</p>

<p style="text-align: right;">Page 34</p> <p>1 narcotics?</p> <p>2 MS. FUMERTON: Objection; form.</p> <p>3 BY MR. INNES:</p> <p>4 Q. I'll rephrase.</p> <p>5 Did you have any responsibility or --</p> <p>6 regarding hydrocodone?</p> <p>7 MS. FUMERTON: Objection; form.</p> <p>8 A. I maybe misunderstand your question. Could</p> <p>9 you narrow it down for me?</p> <p>10 Q. We're discussing your time as a divisional</p> <p>11 compliance director at Walmart between the years</p> <p>12 2004 and 2010. I'd like to know what, if any,</p> <p>13 dealings or responsibilities you had with respect to</p> <p>14 opioids.</p> <p>15 MS. FUMERTON: Objection; form.</p> <p>16 A. During that role, that time period, there</p> <p>17 was never a time where I actually -- I'm having</p> <p>18 trouble understanding your question when you say</p> <p>19 "responsibility" or "involvement." What does that</p> <p>20 actually mean? That's where I'm struggling with the</p> <p>21 question.</p> <p>22 Q. As part of your auditing functions within</p> <p>23 your role as divisional compliance director from</p> <p>24 August 2004 to July 2010, did those audits involve</p> <p>25 Schedule II narcotics?</p>	<p style="text-align: right;">Page 36</p> <p>1 Q. Are you aware that the country is in the</p> <p>2 midst of an opioid epidemic?</p> <p>3 MS. FUMERTON: Objection; form.</p> <p>4 A. I think there is just a general epidemic of</p> <p>5 drug abuse, not necessarily just specific opioids.</p> <p>6 But in general, I think there is an issue with</p> <p>7 abuse.</p> <p>8 Q. Do you believe that that general issue of</p> <p>9 abuse involves opioids?</p> <p>10 MS. FUMERTON: Objection; form.</p> <p>11 A. I think it involves a lot. I think it</p> <p>12 involves alcohol. I think it involves different</p> <p>13 types of medications. It involves OTC products. I</p> <p>14 think it's an addiction issue in general that</p> <p>15 society faces.</p> <p>16 Q. Mr. Ducote, simple question: Yes or no, do</p> <p>17 you believe that people are abusing opioids?</p> <p>18 MS. FUMERTON: Objection; form.</p> <p>19 A. My view is that people abuse a lot of</p> <p>20 different things, and I think it's unfair to</p> <p>21 characterize it as specifically just opioids.</p> <p>22 Q. Are you aware that 100 people a day are</p> <p>23 dying from opioids?</p> <p>24 MS. FUMERTON: Objection; form.</p> <p>25 A. Personally, I think one death is too many,</p>
<p style="text-align: right;">Page 35</p> <p>1 A. They involved recordkeeping.</p> <p>2 Q. Recordkeeping of Schedule II narcotics?</p> <p>3 A. Yes, at times.</p> <p>4 Q. Over the course of the entire time period?</p> <p>5 A. No, not the entire time period.</p> <p>6 Q. What specific time period?</p> <p>7 A. I'd be speculating the exact time period.</p> <p>8 It was more towards the beginning of the 2004 time</p> <p>9 period, but it ended at some point during that time</p> <p>10 period.</p> <p>11 Q. Did any of your audits or audit functions</p> <p>12 involve Schedule III narcotics during that time</p> <p>13 period?</p> <p>14 A. Yes.</p> <p>15 Q. What were those Schedule III narcotics?</p> <p>16 A. That, I do not recall exactly which</p> <p>17 Schedule III, but there were Schedule III narcotics</p> <p>18 looking at recordkeeping.</p> <p>19 Q. Was hydrocodone one of those?</p> <p>20 A. Yes.</p> <p>21 Q. And during what time period did your audits</p> <p>22 address hydrocodone?</p> <p>23 A. Again, it would have been that 2004 time</p> <p>24 period and would have ended at some point, just I</p> <p>25 don't recall exactly when it would have ended.</p>	<p style="text-align: right;">Page 37</p> <p>1 so if it's more than one, yeah, it is a tragic</p> <p>2 situation.</p> <p>3 Q. And you're aware that 100 people a day are</p> <p>4 dying?</p> <p>5 MS. FUMERTON: Objection; form, misstates</p> <p>6 testimony.</p> <p>7 A. Am I aware that 100 -- I couldn't tell you</p> <p>8 how many. I really couldn't. I can tell you,</p> <p>9 though, that I do read in papers and things that</p> <p>10 just abuse across the board is impacting society.</p> <p>11 Q. As part of your reading in the papers, did</p> <p>12 you read any articles about opioids?</p> <p>13 MS. FUMERTON: Objection; form.</p> <p>14 A. Could you restate it maybe?</p> <p>15 Q. Have you read any newspaper articles</p> <p>16 involving opioids?</p> <p>17 MS. FUMERTON: Objection; form.</p> <p>18 A. The articles I've read have included</p> <p>19 opioids, but it was a broader context.</p> <p>20 Q. Have you read Dreamland?</p> <p>21 A. No, I have not.</p> <p>22 Q. You giggled a little bit.</p> <p>23 Do you know what I mean by Dreamland?</p> <p>24 A. No, that just threw me off when you said</p> <p>25 Dreamland. It doesn't seem real.</p>

<p style="text-align: right;">Page 38</p> <p>1 Q. Have you read a New Yorker article regarding 2 the Sackler family? 3 A. Could you state that again. 4 Q. Are you familiar with the periodical The New 5 Yorker? 6 A. Yes, I am. 7 Q. Do you read The New Yorker? 8 A. No. 9 Q. Have you ever read The New Yorker? 10 A. Yes, I have. 11 Q. Have you read an article in The New Yorker 12 that involved the Sackler family? 13 A. No, I have not. 14 Q. Do you know who the Sackler family is? 15 A. No. 16 Q. Do you know who Purdue Pharma is? 17 A. Yes, I do. 18 Q. Do you know who owns Purdue Pharma? 19 A. I don't specifically. 20 Q. Aside from auditing or conducting audits, 21 what were your other responsibilities as a 22 divisional compliance director from July 2004 to 23 July 2010? 24 MS. FUMERTON: Objection; form. 25 A. During that time periods, we were</p>	<p style="text-align: right;">Page 40</p> <p>1 A. Yes, that's correct. 2 Q. And proper security on the premises of 3 Schedule II narcotics? 4 MS. FUMERTON: Objection; form. 5 A. It was proper security of all -- the entire 6 pharmacy. 7 Q. Who are these employees that you were 8 providing training to? 9 MS. FUMERTON: Objection; form. 10 A. I could not recall specifically who they 11 were. It varied at different times. 12 Q. I'm not asking for specific names. 13 A. Okay. 14 Q. But were they -- what role did they have? 15 A. Typically, there was -- typically you would 16 have market managers, which is over a certain number 17 of stores. You would have maybe pharmacists in some 18 of the training courses, but I would say the vast 19 majority were more market level personnel or actual 20 store managers in that training. 21 Q. Can you explain to me what a market manager 22 is? 23 A. Yes. A market manager is typically someone 24 that supervises between six to 15 stores. They are 25 more of a mid level manager.</p>
<p style="text-align: right;">Page 39</p> <p>1 responsible for -- we did do some training. We did 2 some document review, things as far as process 3 improvement, continuous improvement along those 4 lines. It would involve the entire -- what we would 5 consider the entire box of Walmart, which could 6 include things like TLE, which is our -- 7 Q. I didn't understand that last piece. TLE? 8 A. Tire loop, where people go to get our tires 9 changed and things of that nature. 10 Q. What sort of training -- you just testified 11 that you had training. 12 Did any of that training relate to 13 distribution of Schedule II narcotics? 14 A. Maybe there was a misunderstanding of what I 15 said. I talked about us providing in that role. We 16 provided training to store associates about proper 17 procedures, things of that nature. 18 Q. Thank you for clarifying that. So I'll 19 rephrase my question. 20 Did you provide any training regarding 21 Schedule II narcotics to other Walmart employees? 22 A. We did at one time provide training on 23 proper recordkeeping and security of the premises. 24 Q. Proper recordkeeping of Schedule II 25 narcotics?</p>	<p style="text-align: right;">Page 41</p> <p>1 Q. And you provided training to those market 2 managers regarding the security of Schedule II 3 narcotics? 4 MS. FUMERTON: Objection; form. 5 A. We provided training of the overall security 6 of the premise. And so the question you asked, was 7 Schedule II included in that, we did touch on that. 8 But what the pharmacists were responsible for was to 9 ensure our store managers understood the details of 10 what their pharmacists should be accountable for. 11 Q. So by premises, you're referring to a 12 Walmart store? 13 A. Yes. 14 Q. A Walmart store that we'd find here in 15 Rogers? 16 A. Yes, that's correct. 17 Q. You also testified that you would provide 18 training regarding -- I believe it was inventory? 19 A. I don't recall if I said that. I said 20 recordkeeping earlier. 21 Q. Thank you. Recordkeeping. 22 A. Yeah. 23 Q. So my question is what training did you 24 provide regarding recordkeeping as it pertains to 25 Schedule II or Schedule III narcotics?</p>

<p style="text-align: right;">Page 42</p> <p>1 MS. FUMERTON: Objection; form.</p> <p>2 A. The vast majority of the training that was</p> <p>3 provided had to do simply -- for example, when you</p> <p>4 said Schedule III, invoices come in, our product is</p> <p>5 checked in, verified and how those records are</p> <p>6 stored.</p> <p>7 Q. And during that time frame, hydrocodone was</p> <p>8 a Schedule III. Are you aware of that?</p> <p>9 A. Yes.</p> <p>10 Q. Let me go back a little bit. Market</p> <p>11 managers, do they oversee pharmacists?</p> <p>12 A. Some did. There is several different types</p> <p>13 of market managers. Some oversee only the stores.</p> <p>14 Some oversee only the pharmacies or vision centers.</p> <p>15 So there is a combination of both in some of those</p> <p>16 trainings.</p> <p>17 Q. Do market managers who oversee pharmacists</p> <p>18 have a particular title?</p> <p>19 A. They are typically called market health and</p> <p>20 wellness directors.</p> <p>21 Q. And what are their responsibilities?</p> <p>22 A. I could not answer specifically their</p> <p>23 responsibilities except just in general. It's broad</p> <p>24 oversight of the operations of those -- of those</p> <p>25 pharmacies in their designated market.</p>	<p style="text-align: right;">Page 44</p> <p>1 A. Yes.</p> <p>2 Q. -- did any of those improvement projects</p> <p>3 apply to Schedule II narcotics?</p> <p>4 MS. FUMERTON: Objection; form.</p> <p>5 A. Not that I recall.</p> <p>6 Q. Did you work on an improvement project for</p> <p>7 Schedule III narcotics?</p> <p>8 MS. FUMERTON: Same objection.</p> <p>9 A. I don't recall if I did or not. I don't</p> <p>10 recall.</p> <p>11 Q. Do you recall if any of your colleagues at</p> <p>12 that time were working on an improvement project --</p> <p>13 MS. FUMERTON: Objection; form.</p> <p>14 BY MR. INNES:</p> <p>15 Q. -- for Schedule II narcotics?</p> <p>16 MS. FUMERTON: Same objection.</p> <p>17 A. During that six years, I worked on so many</p> <p>18 different things. I just don't remember every</p> <p>19 single one during that time period. It seemed like</p> <p>20 the vast majority of projects always had to do with</p> <p>21 something that was operational, like food safety,</p> <p>22 that I worked on. That seemed to -- it was a hot</p> <p>23 topic at the time, so it seemed to come up often,</p> <p>24 over and over.</p> <p>25 Q. So your focus was primarily on food safety?</p>
<p style="text-align: right;">Page 43</p> <p>1 Q. So as divisional compliance director, your</p> <p>2 primary responsibilities were training and auditing?</p> <p>3 A. Yes.</p> <p>4 Q. Did you have any other responsibilities?</p> <p>5 A. We did have responsibilities at different</p> <p>6 times for various projects that you may have been</p> <p>7 assigned to.</p> <p>8 For example, one project was with Sam's</p> <p>9 Club. Sam's was rolling out some new procedures,</p> <p>10 and we were assigned to help them with it, things of</p> <p>11 that nature.</p> <p>12 Q. The example you just provided, did that</p> <p>13 involve Schedule II narcotics?</p> <p>14 A. No, it did not.</p> <p>15 Q. Did it involve Schedule III narcotics?</p> <p>16 A. No, it did not.</p> <p>17 Q. Any other responsibilities that you can add</p> <p>18 to your divisional compliance director title?</p> <p>19 A. I mean, your day-to-day responsibilities of</p> <p>20 supervising individuals, looking for continuous</p> <p>21 improvement projects, and those were the basic core</p> <p>22 to any job you would have, but those types of</p> <p>23 things.</p> <p>24 Q. When you were looking at improvement</p> <p>25 projects --</p>	<p style="text-align: right;">Page 45</p> <p>1 A. No, I wouldn't say -- maybe I misstated</p> <p>2 that. I wouldn't say my primary focus was food</p> <p>3 safety. That's the topic that seemed to come up a</p> <p>4 great deal.</p> <p>5 Q. Schedule II narcotics did not come up as a</p> <p>6 topic?</p> <p>7 MS. FUMERTON: Objection; form.</p> <p>8 A. Yes, it did.</p> <p>9 Q. In what context?</p> <p>10 A. Recordkeeping.</p> <p>11 Q. Did Schedule III come up?</p> <p>12 A. Yes, recordkeeping again.</p> <p>13 Q. Following your divisional compliance</p> <p>14 director position, you moved to the Walmart --</p> <p>15 general manager at a Walmart Distribution Center in</p> <p>16 Opelousas?</p> <p>17 A. Opelousas.</p> <p>18 Q. Opelousas, Louisiana?</p> <p>19 A. Yes.</p> <p>20 Q. And you served in that role from July 2010</p> <p>21 to July 2014?</p> <p>22 A. Yes, that's correct.</p> <p>23 Q. And what were your duties as the general</p> <p>24 manager of that distribution center?</p> <p>25 A. The primary duties was supervision of</p>

<p style="text-align: right;">Page 46</p> <p>1 day-to-day activities, capital improvements of the</p> <p>2 facility, and just general oversight of the</p> <p>3 leadership team there.</p> <p>4 Q. And did that facility distribute Schedule II</p> <p>5 narcotics?</p> <p>6 A. No, it did not.</p> <p>7 Q. Did it distribute Schedule III narcotics?</p> <p>8 A. No, it did not.</p> <p>9 Q. Did it distribute any pharmaceutical</p> <p>10 products?</p> <p>11 A. OTC products.</p> <p>12 Q. By OTC you mean over the counter?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Did you distribute any products containing</p> <p>15 pseudoephedrine?</p> <p>16 A. No, we did not.</p> <p>17 Q. Did you distribute any products that were --</p> <p>18 any pharmaceutical products that were -- strike</p> <p>19 that.</p> <p>20 Did you distribute any highly regulated</p> <p>21 products from that facility?</p> <p>22 MS. FUMERTON: Objection; form.</p> <p>23 A. Yes.</p> <p>24 Q. What were those products?</p> <p>25 A. Ammunition.</p>	<p style="text-align: right;">Page 48</p> <p>1 MS. FUMERTON: Objection; form.</p> <p>2 A. Not that I'm aware of.</p> <p>3 Q. Do you have any knowledge of any enforcement</p> <p>4 actions regarding firearms at that distribution</p> <p>5 facility?</p> <p>6 A. No.</p> <p>7 MS. FUMERTON: Just give me one second to</p> <p>8 object. Just a reminder.</p> <p>9 THE WITNESS: Sorry.</p> <p>10 BY MR. INNES:</p> <p>11 Q. Following your general manager position, you</p> <p>12 moved to Senior Director II, Pharmacy Supply Chain;</p> <p>13 is that correct?</p> <p>14 A. Yes.</p> <p>15 Q. And you held that position from August 2014</p> <p>16 to June 2017; is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. And that was in -- it's in Bentonville,</p> <p>19 Arkansas?</p> <p>20 A. Yes.</p> <p>21 Q. So you relocated from Opelousas, Louisiana,</p> <p>22 to Bentonville?</p> <p>23 A. Yes, I did.</p> <p>24 Q. I'm going to pass over that one right now.</p> <p>25 We're going to spend a lot of time on that</p>
<p style="text-align: right;">Page 47</p> <p>1 Q. Ammunition for rifles?</p> <p>2 A. Yes.</p> <p>3 Q. Guns, generally?</p> <p>4 A. Yes.</p> <p>5 Q. Those are regulated by the ATF?</p> <p>6 A. Yes.</p> <p>7 Q. As part of your duties as general manager of</p> <p>8 that distribution center, did you have dealings with</p> <p>9 the ATF?</p> <p>10 A. No.</p> <p>11 Q. Did you have dealings with any federal</p> <p>12 agency regarding the sale and dis -- sale of</p> <p>13 firearms?</p> <p>14 A. No.</p> <p>15 Q. With the distribution of firearms?</p> <p>16 A. No.</p> <p>17 Q. With the storage of firearms?</p> <p>18 A. No.</p> <p>19 Q. Did anyone at the facility have interaction</p> <p>20 with federal agencies regarding the storage of</p> <p>21 firearms?</p> <p>22 A. Not that I'm aware of.</p> <p>23 Q. Did anyone at the facility have any contact</p> <p>24 with federal agencies regarding anything to do with</p> <p>25 firearms?</p>	<p style="text-align: right;">Page 49</p> <p>1 particular role.</p> <p>2 A. Okay.</p> <p>3 Q. So we'll get through this and come back.</p> <p>4 A. I understand.</p> <p>5 Q. Following Senior Director II, Pharmacy</p> <p>6 Supply Chain, you moved to Vice President Supply</p> <p>7 Chain; is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. And you've been in that role since June of</p> <p>10 2017?</p> <p>11 A. June seems correct. I know it's on my</p> <p>12 profile. It just seems like it was a little bit</p> <p>13 later, but it's directionally correct.</p> <p>14 Q. And the areas that you are responsible for</p> <p>15 is Alaska, Hawaii, Washington, Oregon, Nevada,</p> <p>16 California?</p> <p>17 A. Yes.</p> <p>18 Q. Are there any other states that are listed</p> <p>19 that you are not responsible for?</p> <p>20 A. We may ship stuff into Montana, but that</p> <p>21 changes on a routine basis depending on</p> <p>22 transportation alignment.</p> <p>23 Q. What do you mean by "stuff"?</p> <p>24 A. Groceries, things of that -- food.</p> <p>25 Q. So is the -- the role you're in now deals</p>

<p style="text-align: right;">Page 50</p> <p>1 exclusively with groceries?</p> <p>2 A. It deals exclusively with ambient products,</p> <p>3 such as pet food, paper goods, and also grocery</p> <p>4 products that require refrigeration.</p> <p>5 Q. Walmart no longer distributes Schedule II</p> <p>6 narcotics; is that correct?</p> <p>7 A. That's my understanding.</p> <p>8 Q. Walmart no longer distributes Schedule III</p> <p>9 narcotics; is that correct?</p> <p>10 A. That's my understanding.</p> <p>11 Q. I want to go back in time a little bit.</p> <p>12 During your time in pharmacy recruiting, did</p> <p>13 you have any discussion with pharmacists regarding</p> <p>14 opioids?</p> <p>15 A. Not that I recall.</p> <p>16 Q. Were you aware of the growing opioid</p> <p>17 epidemic at that time period?</p> <p>18 MS. FUMERTON: Objection; form.</p> <p>19 A. Going back to our -- my earlier comments, it</p> <p>20 was in general about just abuse and addiction</p> <p>21 overall.</p> <p>22 Q. So you spoke to pharmacists about abuse and</p> <p>23 addiction during your --</p> <p>24 A. No. Maybe I misunderstood your question. I</p> <p>25 thought you just asked in general. Is that -- did I</p>	<p style="text-align: right;">Page 52</p> <p>1 and that back and forth doesn't necessarily mean</p> <p>2 that he was not appropriately answering your</p> <p>3 question.</p> <p>4 So I agree with the ground rule, but I just</p> <p>5 want to make sure that we're on both sides</p> <p>6 applying those.</p> <p>7 BY MR. INNES:</p> <p>8 Q. When you were in your role as a pharmacy --</p> <p>9 manager of pharmacy recruiting, did the topic of</p> <p>10 addiction generally come up?</p> <p>11 A. Not that I recall.</p> <p>12 Q. Did the topic of abuse of addictive drugs</p> <p>13 come up during your time as a manager of pharmacy</p> <p>14 recruiting?</p> <p>15 MS. FUMERTON: Objection; form.</p> <p>16 A. Not that I recall.</p> <p>17 Q. So at no time during your tenure as a</p> <p>18 manager of pharmacy recruiting did you discuss</p> <p>19 addiction with potential pharmacists?</p> <p>20 MS. FUMERTON: Objection; form.</p> <p>21 A. I don't recall doing so.</p> <p>22 Q. You can't remember or you don't know?</p> <p>23 A. Aren't they the same?</p> <p>24 Q. Are they?</p> <p>25 A. My view is -- yes, to a certain degree, they</p>
<p style="text-align: right;">Page 51</p> <p>1 misunderstand your question?</p> <p>2 Q. I have a new question.</p> <p>3 A. Okay.</p> <p>4 Q. When you were a -- when you were working</p> <p>5 with pharmacists in recruiting, did you speak to</p> <p>6 them about addiction?</p> <p>7 A. Not specifically. I thought you said if I</p> <p>8 was aware of it, not speaking, so I answered -- I</p> <p>9 think I answered that incorrectly based on what you</p> <p>10 said.</p> <p>11 Q. So another ground rule. If you don't</p> <p>12 understand the question, tell me you don't</p> <p>13 understand the question and I'll rephrase it.</p> <p>14 A. Okay.</p> <p>15 Q. Once I rephrase it, that's the question</p> <p>16 that's standing; I want you to answer that one. I</p> <p>17 want you to answer a compilation of questions. Just</p> <p>18 tell me you don't understand it and I'll rephrase</p> <p>19 it.</p> <p>20 MS. FUMERTON: Fair enough. I agree if you</p> <p>21 don't understand the question, you shouldn't</p> <p>22 answer it.</p> <p>23 Also, if you don't understand his answer,</p> <p>24 that didn't mean he didn't understand the</p> <p>25 question. I just think there's some confusion</p>	<p style="text-align: right;">Page 53</p> <p>1 are the same. I don't remember, I don't recall</p> <p>2 seems the same to me.</p> <p>3 Q. Is it a possibility that you spoke about</p> <p>4 addiction with pharmacists during your role as a</p> <p>5 recruiting manager?</p> <p>6 MS. FUMERTON: Objection; form.</p> <p>7 A. It could be possible.</p> <p>8 Q. I know I have a slow cadence, but give me</p> <p>9 time to finish the question.</p> <p>10 MS. FUMERTON: Sure. I apologize. Should</p> <p>11 we take -- we've been going an hour.</p> <p>12 MR. INNES: I'm trying to think right now.</p> <p>13 I think we are at a natural breaking point. So</p> <p>14 we can just go off the record.</p> <p>15 THE VIDEOGRAPHER: Going off the record.</p> <p>16 The time is 9:01.</p> <p>17 (Recess from 9:01 a.m. until 9:17 a.m.)</p> <p>18 THE VIDEOGRAPHER: Going back on the record.</p> <p>19 Beginning of Media File Number 2. The time is</p> <p>20 9:17.</p> <p>21 BY MR. INNES:</p> <p>22 Q. Mr. Ducote, we're back on the record.</p> <p>23 The -- what was the title you held immediately</p> <p>24 before your current position?</p> <p>25 A. Senior Director II, Pharmacy Supply Chain.</p>

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1 Q. And how did you come to have that role?
2 A. Walmart has a process of posting open
3 positions. The position was posted, I applied and
4 was awarded the position.
5 Q. And is that posted on an internal web page?
6 A. My understanding is internal and external,
7 depending on the hiring manager.
8 Q. And do you recall if there was a job
9 description for that title?
10 A. Yes.
11 Q. And do you recall what that job description
12 was?
13 A. I do not recall exactly what the job
14 description title was.
15 Q. Do you recall what drew you to apply for
16 that position?
17 A. Yes, I do.
18 Q. What was that?
19 A. Partially to return to this area. I've
20 lived in this area prior, enjoyed the area, liked
21 it, and wanted to get back here.
22 Q. It's my understanding that Walmart
23 distributes all Schedule II drugs from the 6408
24 facility; is that correct?
25 MS. FUMERTON: Objection; form.

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1 A. During my time period in the role, we did.
2 MS. FUMERTON: I honestly don't want to
3 nitpick this, but the "distributes," this
4 obviously was a past issue. I just wanted to be
5 careful going forward. So I'm not -- I'm just
6 explaining my objection.
7 MR. INNES: I'm not sure I understand your
8 objection.
9 MS. FUMERTON: That the Walmart no longer
10 distributes those substances. So you asked it in
11 the present tense. That's my point is I'm just
12 trying to make.
13 MR. INNES: Fair point. Fair point.
14 BY MR. INNES:
15 Q. During your time period at -- in that role,
16 Walmart distributed C2 pharmaceuticals from that
17 facility?
18 A. Yes.
19 Q. Do you recall if that was specifically
20 mentioned in the job posting?
21 A. I do not recall if it was specifically
22 mentioned in there.
23 Q. Can you describe the application process?
24 A. From what I remember of it, I had to go
25 online and fill out an interest, and I think I had

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1 to update my résumé in the system. And then I got a
2 requisition number. And that was pretty much how
3 the application process -- it was very simple, very
4 quick.
5 Q. When you say "fill out an interest," what
6 does that mean?
7 A. I think I had to check a few boxes that --
8 boxes about maybe how long I was in my previous
9 role, because we -- our transfer policy requires you
10 to be in a position for a certain amount of time.
11 Very basic questions. Nothing really specific.
12 Q. At the time of the application, did you feel
13 qualified for that position?
14 A. Yes.
15 Q. What made you feel qualified for that
16 position?
17 A. Going back to the previous question on the
18 job description, I don't recall exactly every
19 specific in it, but I read the job description for
20 the role and felt that the qualifications required,
21 I had.
22 Q. Do you not recall reading the job
23 description?
24 MS. FUMERTON: Objection; form.
25 A. I think I may be confused on the question.

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1 I thought earlier the question related if I
2 remembered the details.
3 Q. I'm just reading the transcript. I didn't
4 mean to cut you off, so maybe I asked the wrong
5 question.
6 Do you now recall, sitting here today,
7 reading the job description?
8 MS. FUMERTON: Objection; form.
9 A. Could you ask me the earlier question again?
10 Because maybe I answered the question wrong because
11 I misunderstood the question.
12 Q. I'm trying to ascertain whether or not you
13 remember reading a job application -- a job posting
14 for that role.
15 A. I thought my answer was yes, but maybe I'm
16 confused now on it. Where --
17 Q. So let's clear that up. Do you recall
18 reading a job posting for that role?
19 A. When a job is posted, it has the description
20 of the job in it. I think maybe that's the
21 confusion between how I'm answering the question, or
22 maybe I'm just totally confused.
23 But when a job is posted, it says here's the
24 job and here's a description of the job. So when I
25 read that job description, I felt I was qualified

<p style="text-align: right;">Page 58</p> <p>1 for that job.</p> <p>2 Q. And do you recall why you felt you were</p> <p>3 qualified for that job?</p> <p>4 A. I mean, to say specifically how I felt at</p> <p>5 that time, that would be conjecture on my part. I</p> <p>6 mean, I had a -- the job basically entailed supply</p> <p>7 chain. I had been doing that for four years, and I</p> <p>8 thought I was pretty successful at it. And so I</p> <p>9 think intuitively I felt I was qualified for the</p> <p>10 job.</p> <p>11 Q. In your prior position, the position that</p> <p>12 you had before the -- when you were the general</p> <p>13 manager of the other facility --</p> <p>14 A. Yes.</p> <p>15 Q. -- it was your testimony that you didn't --</p> <p>16 none of your responsibilities dealt with Schedule II</p> <p>17 narcotics, correct?</p> <p>18 A. Yes, that is correct.</p> <p>19 Q. And the 6048 facility for which you were</p> <p>20 applying to deal with Schedule II narcotics,</p> <p>21 correct?</p> <p>22 A. It wasn't 6048. 6048 was Opelousas.</p> <p>23 6045 -- I was not hired specifically to</p> <p>24 manage 6045. It was the entire network.</p> <p>25 Q. Who did you replace in that role?</p>	<p style="text-align: right;">Page 60</p> <p>1 the country, and that there was a home office team</p> <p>2 that I would be working with. So those were the two</p> <p>3 broad assumptions I had regarding the role.</p> <p>4 Q. And what more specifically was your</p> <p>5 understanding of what that management or</p> <p>6 supervision -- or supervising role would be?</p> <p>7 A. Day-to-day activities, but at a higher</p> <p>8 level, not specifically here's Example A that's</p> <p>9 happening in the building. But we have specific</p> <p>10 times of things that we have to do and that I</p> <p>11 would air traffic control over those, in a broad</p> <p>12 sense, very general management, nothing -- nothing</p> <p>13 out of the ordinary.</p> <p>14 Q. Did you have an understanding of what</p> <p>15 Walmart's policies were with respect to Schedule II</p> <p>16 narcotics at the time you took or accepted that</p> <p>17 position?</p> <p>18 MS. FUMERTON: Objection; form.</p> <p>19 A. I thought -- you looked like you were going</p> <p>20 to ask another question. Were you not going to ask</p> <p>21 another question?</p> <p>22 Q. No, I'm going to wait for you to answer the</p> <p>23 question.</p> <p>24 A. Could you restate the question.</p> <p>25 Q. Did you at the time have an understanding of</p>
<p style="text-align: right;">Page 59</p> <p>1 A. In that role, I replaced Tim Harris.</p> <p>2 Q. What role did Tim take on after you replaced</p> <p>3 him?</p> <p>4 A. Tim had already been put into a new role</p> <p>5 when I -- when I took over his position, Tim had</p> <p>6 been moved into a similar role then, now divisional</p> <p>7 vice president of supply chain.</p> <p>8 Q. What were your expectations when you took</p> <p>9 the job as to what your responsibilities were going</p> <p>10 to be?</p> <p>11 MS. FUMERTON: Objection; form.</p> <p>12 A. Maybe could you just reask that for me just</p> <p>13 to make sure I'm going to answer it correctly?</p> <p>14 Q. You applied for the role, correct?</p> <p>15 A. Yes, I did.</p> <p>16 Q. You were offered that position, correct?</p> <p>17 A. That is correct.</p> <p>18 Q. You accepted that position, correct?</p> <p>19 A. Yes.</p> <p>20 Q. And when you accepted that position, did you</p> <p>21 have any idea what that role was going to entail?</p> <p>22 A. I had a broad idea.</p> <p>23 Q. And what was that?</p> <p>24 A. That it was managing and supervising the</p> <p>25 pharmacy distribution centers that we had throughout</p>	<p style="text-align: right;">Page 61</p> <p>1 Walmart's policies with respect to Schedule II</p> <p>2 narcotics when you accepted the job?</p> <p>3 MS. FUMERTON: Objection; form.</p> <p>4 A. That question is very broad for me to</p> <p>5 answer. Is there -- could you narrow --</p> <p>6 Q. When you accepted the position, did you have</p> <p>7 an understanding of Walmart's policies with respect</p> <p>8 to Schedule II narcotics?</p> <p>9 MS. FUMERTON: Objection; form.</p> <p>10 A. The reason it's difficult for me to answer</p> <p>11 the question is there is a host of procedures and</p> <p>12 policies that relate to dispensing to various</p> <p>13 factors, and that's -- I couldn't answer that I knew</p> <p>14 every procedure. I could answer a broad sense I</p> <p>15 understood some, but that's why --</p> <p>16 Q. Let's focus on those policies related to</p> <p>17 distribution of Schedule II narcotics.</p> <p>18 A. Okay.</p> <p>19 Q. Did you have an understanding of what those</p> <p>20 policies were prior to taking the position?</p> <p>21 MS. FUMERTON: Objection; form.</p> <p>22 A. Not in specific detail.</p> <p>23 Q. Did you have a general idea?</p> <p>24 MS. FUMERTON: Objection; form.</p> <p>25 A. As I was moving into the role -- and maybe I</p>

<p style="text-align: right;">Page 62</p> <p>1 should clarify.</p> <p>2 Is your question once I took the role and</p> <p>3 they -- there was a transition, or was it before I</p> <p>4 took the role?</p> <p>5 Q. No. My question is did you have an</p> <p>6 understanding of what those policies were prior to</p> <p>7 taking the position?</p> <p>8 MS. FUMERTON: Objection; form.</p> <p>9 A. The reason that question is tough for me to</p> <p>10 answer, at some point if you have worked in a</p> <p>11 Walmart pharmacy, which my background shows I have,</p> <p>12 you will understand the general just how the</p> <p>13 distribution system works of Walmart. And so the</p> <p>14 answer is yes, I understand the general</p> <p>15 distribution, but to understand the specific</p> <p>16 policies that were in place, the answer is no. So</p> <p>17 seems like I'm giving a contrary answer, but it is</p> <p>18 yes and no.</p> <p>19 Q. Was it your understandings that you would</p> <p>20 have some degree of oversight over Walmart's</p> <p>21 distribution of opioids when you took that position?</p> <p>22 MS. FUMERTON: Objection; form.</p> <p>23 A. Understanding I would have responsibility</p> <p>24 for distribution of all pharmaceutical products that</p> <p>25 were carried in our network.</p>	<p style="text-align: right;">Page 64</p> <p>1 might ask you to refer to it later, so we'll keep</p> <p>2 a copy set there.</p> <p>3 BY MR. INNES:</p> <p>4 Q. Take your time, review it, and when you are</p> <p>5 done, let me know.</p> <p>6 A. All right. I'm done.</p> <p>7 Q. Okay. Mr. Ducote, you're looking at what's</p> <p>8 been marked as Plaintiff's Exhibit 2.</p> <p>9 It's an e-mail from Nick Tallman to you,</p> <p>10 Chad Ducote. It is dated August 19th, 2014, and it</p> <p>11 begins -- the Bates number is -- I'm just going to</p> <p>12 give the last digits of this for the record --</p> <p>13 22832.</p> <p>14 MS. FUMERTON: It's cut off on the front.</p> <p>15 Do you know what it is? Maybe we can clean it up</p> <p>16 during the break, but just so we know what the</p> <p>17 complete --</p> <p>18 MR. INNES: Oh, I'm sorry, that's a bad</p> <p>19 copy. So do you want --</p> <p>20 MS. FUMERTON: But you have the copy, so</p> <p>21 that's what you read was the first --</p> <p>22 MR. INNES: Yeah. I'm sorry. It's a bad</p> <p>23 copy, so my apologies.</p> <p>24 MS. FUMERTON: Okay. I'm sorry.</p> <p>25 BY MR. INNES:</p>
<p style="text-align: right;">Page 63</p> <p>1 Q. And that would include opioids?</p> <p>2 A. Yes.</p> <p>3 Q. And when did -- what was your first day on</p> <p>4 the job?</p> <p>5 A. I could not tell you -- I couldn't tell you</p> <p>6 specifically.</p> <p>7 Q. In or about?</p> <p>8 A. When I was looking at this, one of the</p> <p>9 things that -- to clarify, is I was awarded the job</p> <p>10 in the August time period.</p> <p>11 From what I recall, I applied for the job</p> <p>12 around July or -- probably July. I seem to remember</p> <p>13 I was awarded the job in August. I actually didn't</p> <p>14 start up here until early October. So in September</p> <p>15 was a transition time period for me.</p> <p>16 (Ducote Exhibit 2 was marked for</p> <p>17 identification.)</p> <p>18 BY MR. INNES:</p> <p>19 Q. I'm handing you what's been marked as</p> <p>20 Plaintiff's Exhibit 2. Pardon my reach.</p> <p>21 MR. INNES: Copies for you.</p> <p>22 THE WITNESS: Do I keep this?</p> <p>23 MS. FUMERTON: No. We want to make sure we</p> <p>24 don't lose this, because that would be bad.</p> <p>25 We're going to keep a pile right here. They</p>	<p style="text-align: right;">Page 65</p> <p>1 Q. So for your notes, it's 000022832.</p> <p>2 A. I'm sorry.</p> <p>3 Q. Do you remember receiving this e-mail?</p> <p>4 A. I don't remember specifically receiving it,</p> <p>5 but it does appear that I did receive it.</p> <p>6 Q. Okay. So it reads: Chad, here's the SOM</p> <p>7 procedure as it stands today. This has not been</p> <p>8 through the Compliance Advisory Panel. This also</p> <p>9 will only be set up as a short-term solution until</p> <p>10 the systematic solution is in place next year.</p> <p>11 Is that an accurate reading?</p> <p>12 A. Yes.</p> <p>13 Q. Did you ask Mr. Tallman to send you this?</p> <p>14 A. Not that I recall.</p> <p>15 Q. This is about the time that you're</p> <p>16 transitioning out of your old role into the new</p> <p>17 role; is that right?</p> <p>18 A. Yes. If you go to the top where you see the</p> <p>19 "to" line, it has my name and it has the DC number</p> <p>20 behind it. I was still in the actual general</p> <p>21 manager position technically until the end of that</p> <p>22 time period.</p> <p>23 So I think I was awarded the position and</p> <p>24 Nick -- it was announced. So from what I recall,</p> <p>25 there was a flood of notes that were sent to me from</p>

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1 different team members if things they were working
2 on during that time period.
3 Q. Okay. Do you know what Mr. Tallman is
4 referring to in the -- here's the SOM procedure? Do
5 you know what that is?
6 A. Yes, I do today.
7 Q. And what is that?
8 A. Suspicious order monitoring.
9 Q. And what does suspicious order monitoring
10 pertain to?
11 A. That is a very long answer. I will make it
12 as concise as possible.
13 Q. I can rephrase.
14 Does suspicious order monitoring apply to
15 Schedule II narcotics?
16 A. Yes.
17 Q. Does it apply to Schedule III narcotics?
18 A. Yes.
19 Q. And it's your understanding that this was --
20 strike that.
21 Mr. Tallman was saying this will only be set
22 up as a short-term solution. Do you have any idea
23 what the problem was that they were trying to solve
24 at that time?
25 MS. FUMERTON: Objection; form.

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1 A. At the time, I did not, but as time went on
2 and I matured in that role, I did -- I did begin to
3 understand what that meant.
4 Q. And when did you first begin to understand
5 what that meant?
6 A. That would be difficult to pinpoint exactly,
7 but it would be in the fall of 2014 time period.
8 I think any new job, as one begins, it takes
9 them some time to get acclimated. And a few months
10 into the job, going into the spring of 2015, I began
11 to fully understand.
12 Q. I'm going to ask you to turn to the --
13 before I do that, do you know what the systematic
14 solution refers to?
15 A. At the time I did not, but again, as time
16 went on, I did understand what that was.
17 Q. And was that around fall of 2014 as well?
18 A. The beginnings of the systematic solution
19 were beginning to be put in place in 2014, but it
20 was not fully implemented at that time period.
21 Q. In fact, it says it's likely put in place
22 next year; is that right?
23 A. Yes.
24 Q. Did that occur?
25 A. Yes.

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1 Q. It did. I'll ask you to turn to the third
2 page of this document. You've had a chance to
3 review that; is that correct?
4 A. Yes.
5 Q. I don't know if we have a bad copy on that
6 as well, but that is document ending in 22384.
7 Are you familiar with this document?
8 A. Yes.
9 Q. You've seen it before?
10 A. Yes.
11 Q. Can you explain to me what this represents?
12 A. What this represents is VAWD, verified
13 accredited wholesale distributor, was doing -- there
14 were certain policies and procedures that they
15 recommended that were put in place based on their
16 review, and this was an output of that process.
17 Q. You referred to the VAWD. Could you --
18 A. Verified accredited wholesale distributor.
19 Q. And it was important -- well, and the VAWD,
20 did they confer accreditations on distributors?
21 A. I'm not sure from the legal sense exactly
22 how that plays out, but they do give accreditation.
23 Q. Did Walmart apply for accreditation?
24 A. Yes.
25 Q. Was it important that Walmart got that

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1 accreditation?
2 MS. FUMERTON: Objection; form.
3 A. From my view, it was.
4 Q. And why is that?
5 A. My view is that it's gold standard.
6 Q. And isn't it true at this time in August of
7 2014 the policy in place at Walmart would not
8 qualify for accreditation?
9 MS. FUMERTON: Objection: Form.
10 A. Would you restate the question for me?
11 Q. Isn't it true that at this time, August of
12 2014, the policies in place at that time would not
13 meet the criteria for accreditation by VAWD?
14 MS. FUMERTON: Objection; form.
15 A. I wasn't in the -- I just was beginning the
16 role during that time period. I wouldn't be able to
17 answer. I had not sat in on the previous meetings
18 with VAWD.
19 (Ducote Exhibit 3 was marked for
20 identification.)
21 BY MR. INNES:
22 Q. Mr. Ducote, I'm handing you what we've
23 marked as Plaintiff's 3.
24 MR. INNES: Tara, this is a better copy.
25 BY MR. INNES:

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1 Q. Mr. Ducote, while you review that document,
2 this is an e-mail from Tim Harris to Theresa Alford
3 and to you, Chad Ducote, at your 6048 e-mail
4 address, copies Kristy Spruell. It's dated
5 September 4, 2014. It ends in Bates number 16251 --
6 or begins in Bates number 16251.
7 Let me know when you've had a chance to
8 review the document.
9 MS. FUMERTON: You can take your time to
10 review it. I just noticed you went from the
11 first page to the last page, which is fine, but
12 maybe you can start that way if you want to.
13 THE WITNESS: Yeah.
14 A. Okay. I've reviewed it.
15 Q. All set?
16 A. Yes.
17 Q. So this e-mail indicates from Tim Harris
18 that you -- that Walmart had applied for an
19 extension of time to apply for accreditation. We
20 simply -- it reads: We simply need to have an
21 interim plan locked down within the next 30 days.
22 Is that correct?
23 MS. FUMERTON: Objection; form.
24 BY MR. INNES:
25 Q. I can rephrase. Do you see the line at the

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1 top of the page, Mr. Ducote, it says: We simply
2 need to have an interim plan locked down within the
3 next 30 days.
4 Is that correct?
5 A. Yes.
6 Q. You need to have a plan locked down in the
7 next 30 days, because if you didn't have an interim
8 plan -- current plan -- let me rephrase.
9 The current plan, the plan that was in place
10 in September of '14, did not meet the VAWD
11 accreditation; is that correct?
12 MS. FUMERTON: Objection; form.
13 A. That goes back to my previous comment. I
14 was transitioning into the role. I had actually not
15 sat in with VAWD, talked with VAWD. So I was copied
16 on the e-mail, but to speak on behalf of VAWD, I
17 really could not.
18 Q. Why were you copied on the e-mail?
19 A. Going back to the earlier comment, during
20 that time period, I was just blasted with e-mails
21 that everyone was starting to copy me on.
22 Q. Was VAWD accreditation part of your role,
23 your new role?
24 A. Yes -- yes, it was going to be, but that's
25 looking in hindsight. If you're asking me at the

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1 time of this e-mail, I wasn't as aware of it.
2 Q. Okay. And when did you become involved in
3 the VAWD accreditation process in a more substantive
4 degree?
5 A. I -- I don't know exactly when. In this
6 first round here in these documents that you see,
7 yes, I was copied on the e-mails, but to say I was
8 substantively involved in it, that would be a
9 stretch.
10 It was a next level -- it was either the
11 next year or the year after when we were going
12 through reaccreditation and policies and procedures
13 review, that's when I really became involved. This
14 time period is simply e-mails I was copied on. I
15 was trying to get my feet under me and understand
16 what was going on.
17 Q. You said either the next year or year after
18 when we were going through reaccreditation.
19 Do you mean -- what do you mean by that?
20 A. Yeah, that's confusing, and I will just,
21 quite frankly, struggle to explain it because it is
22 still confusing to this day for me.
23 VAWD has a accreditation for the overall
24 network, but they are also -- each site has site
25 reviews. And so at the time period, each year, it

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1 seemed, there was a different site review that came
2 up, but then there was an overall accreditation at
3 certain time periods.
4 Q. Okay. The accreditation that, I would say,
5 begins with this e-mail, that you were first
6 notified of this accreditation process, does that
7 pertain to the entire network?
8 A. Reading this --
9 Q. Yeah.
10 A. -- my answer would be yes.
11 Q. Okay.
12 (Ducote Exhibit 4 was marked for
13 identification.)
14 BY MR. INNES:
15 Q. Mr. Ducote, this is Plaintiff's 4.
16 Again, take your time reviewing it and let
17 me know when you have finished.
18 A. Okay. I've read it.
19 MS. FUMERTON: Did you read the second page?
20 You started that way.
21 THE WITNESS: Yes.
22 MS. FUMERTON: Okay. I just wanted to make
23 sure.
24 BY MR. INNES:
25 Q. Okay. So this is an e-mail from Kristy

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1 Spruell to Chad Ducote and Tim Harris sent on
2 September 11, 2014. It ends in 19 -- it begins with
3 19447.
4 A. Yes.
5 Q. Mr. Ducote, I noticed in the "to" line your
6 e-mail address no longer bears the 6048 designation.
7 What's the reason for that?
8 A. They would have changed me to a different
9 server. Once you are attached to the home office,
10 the server that you're on changes. So probably
11 around that beginning September time period is when
12 that transition happened.
13 Q. So at this time were you sitting in the home
14 office?
15 A. No. I was still in Louisiana.
16 Q. Okay. This is addressed to Chad and Tim.
17 Is that Tim Harris?
18 A. Yes.
19 Q. And at this point is this fair to say this
20 is a transition point between when Tim is leaving
21 and you're entering?
22 A. Yes. Tim had started the other role, but I
23 would -- he was still -- yes, to answer your
24 question.
25 Q. You guys were, for more lack of a better

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1 term, tag-teaming the role at that point?
2 A. I wouldn't say tag-teaming. I was still
3 trying to learn all the details of it, so I don't
4 know if -- if you say tag-teaming means equal 50/50
5 at that time, I didn't still have -- still wasn't
6 fully transitioned.
7 Q. And you say you were still trying to learn
8 the role at this point?
9 A. Yes.
10 Q. Is this part of learning that role? Is this
11 educating you as to what the role is?
12 A. Yes.
13 Q. Okay. And I want to get into the guts of
14 this.
15 The second line of the e-mail says: The
16 policy with the identification -- begins with the
17 identification with an order of interest and
18 addresses the steps we'll take to evaluate those
19 orders.
20 Do you know what policy is being referred to
21 there?
22 A. I do not know specifically what Kristy was
23 referring to.
24 Q. Did you at the time know what an order of
25 interest was?

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1 A. I learned at that time period.
2 Q. And what was your understanding?
3 A. An order of interest was, at that time
4 period, what I learned, order of maybe unusual size,
5 frequency. Pretty much those topics.
6 Q. And is this policy potentially referring to
7 the suspicious order monitoring policy?
8 A. Yes.
9 Q. And the second paragraph begins with: The
10 part we were trying to solve for is the
11 identification of orders of interest and the ability
12 to stop shipment of such orders unless and until the
13 order has been evaluated and approved as an
14 acceptable order.
15 You agree that this was not being done with
16 the current policy, correct?
17 MS. FUMERTON: Objection; form.
18 A. No. No, I don't agree. I think as time
19 went on, I learned more. Again, was in transition
20 but learned more. I think that statement was
21 inaccurate at the time it was written.
22 Q. Do you believe there was a policy in place
23 in September of 2014 that identified an order of
24 interest?
25 MS. FUMERTON: Objection to form --

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1 objection; form.
2 A. To tell you if there was a policy, I don't
3 specifically know; but to tell you there was a
4 process, there was a process.
5 Q. That's not my question. The question is is
6 there a policy?
7 MS. FUMERTON: Objection; form.
8 A. I do not know.
9 Q. There wasn't a policy in place that would
10 permit the ability to stop a shipment of an order of
11 interest unless and until it had been evaluated and
12 approved as an acceptable order?
13 MS. FUMERTON: Objection; form.
14 A. Would you one more time ask that for me?
15 Q. The policy, the Walmart's policy, suspicious
16 order monitoring policy in September of 2014 and
17 before did not include the ability to stop a
18 shipment of an order of interest until that order
19 had been evaluated and approved as an acceptable
20 order; that's correct, right?
21 MS. FUMERTON: Objection; form.
22 A. That question is hard for me to answer
23 because I don't think that's correct, but when
24 you're saying "policy," are you referring to a
25 black-and-white piece of paper --

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1 Q. Does Walmart have policies that govern its
2 suspicious order monitoring?
3 MS. FUMERTON: Objection; form.
4 A. Yes.
5 MR. INNES: Can you explain your objection
6 on that?
7 MS. FUMERTON: Yeah, temporal. You're
8 asking him does Walmart have policies currently
9 stated that govern its suspicious order
10 monitoring. Are you talking about now? Are you
11 talking about in 2014? Are you talking about in
12 2010? Are you talking --
13 MR. INNES: We'll cover --
14 MS. FUMERTON: -- about in 2016?
15 MR. INNES: Appreciate it.
16 MS. FUMERTON: That's my objection.
17 MR. INNES: Got it. We'll cover it all.
18 BY MR. INNES:
19 Q. Currently, do you have -- does Walmart have
20 policies and procedures in place for suspicious
21 order monitoring?
22 A. I haven't been in that role in a year. I
23 don't know currently if we do or not.
24 Q. Did they have it a year ago?
25 A. When I left the role, yes.

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1 Q. Do you have reason to believe that they
2 discontinued those policies?
3 A. I don't know if they've updated the
4 policies, changed the name of it, or anything else,
5 or if it even applies considering.
6 Q. Do you know if, as we sit here today,
7 Walmart has a suspicious order monitoring policy?
8 MS. FUMERTON: Objection; form.
9 A. Earlier you asked me about us
10 distributing --
11 Q. I'm asking you now. I'm asking you today.
12 Sitting here today, does Walmart have a suspicious
13 order monitoring policy?
14 MS. FUMERTON: Okay. He started to answer
15 and you interrupted him. So if you're going to
16 ask a question, make sure you give him the
17 ability to answer before you interrupt if you
18 didn't like the direction it was going. But let
19 him answer the question; and if you need to
20 follow up, you can follow up.
21 BY MR. INNES:
22 Q. You can answer the question.
23 A. I forgot what I was going to say.
24 I do not currently know. I'm not in that
25 role, or in that position or in that area. I don't

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1 know what the current policies are.
2 Q. So you -- do you agree that Walmart has a
3 policy in place today?
4 MS. FUMERTON: Objection; form.
5 A. I really, good faith, couldn't tell you. I
6 didn't look to see if we had policies currently in
7 place. My assumption would be yes, we do. I mean,
8 we make extraordinary efforts to comply with the
9 law. So you're asking me to make a conjecture
10 statement, and that's -- I just don't think that's a
11 fair question.
12 MR. INNES: And move to strike as
13 nonresponsive.
14 Q. The question really is "yes" or "no." Do
15 you know, sitting here today, if Walmart has a
16 suspicious order monitoring policy in place?
17 MS. FUMERTON: Okay. He already answered
18 this question, but go ahead and answer again.
19 A. No.
20 BY MR. INNES:
21 Q. You do not know. Okay.
22 In September of 2014, do you know if Walmart
23 had a suspicious order monitoring policy in place?
24 A. My viewpoint was that we did have a process,
25 policy, whatever you'd like to call it, in place.

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1 It may not have been titled specifically of that
2 nature, but there was a process in place.
3 That's my view about the time. And, again,
4 I was in transition; but looking back on it, that's
5 what my view would be.
6 Q. There was a written process in place at
7 Walmart in September of 2014 that addressed
8 suspicious order monitoring.
9 MS. FUMERTON: That's a statement, not a
10 question.
11 BY MR. INNES:
12 Q. Do you agree?
13 MS. FUMERTON: Objection; form.
14 A. Earlier when you asked the question, the
15 question was orders of interest and that's why I
16 answered your question on there was a process for
17 orders of interest.
18 Q. Was there a written -- was there a written
19 process in place at Walmart in September of 2014
20 that addressed suspicious order monitoring?
21 A. My view is yes. And maybe my view -- again,
22 I was in transition; but from what I saw when
23 walking into the role and transitioning into it, I
24 felt there was a process in place.
25 Q. And when you initially stepped into that

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1 role, Walmart was in the process of changing that
 2 policy; is that correct?
 3 A. Yes.
 4 Q. And what changes was it making to that
 5 policy?
 6 A. That is -- at that time period, in 2014, I'd
 7 just have to think, because, again, transitioning is
 8 a lot at one time.
 9 Q. What was the process in place in 2014?
 10 MS. FUMERTON: Objection; form.
 11 Q. In September of 2014?
 12 MS. FUMERTON: Objection; form.
 13 A. I don't recall exactly everything that was
 14 in place. I just remember them talking to me about
 15 there is a process that we look at orders of
 16 interest and there is a protocol and that we're
 17 transitioning to a different process based on a
 18 recommendation from VAWD, and that's in that time
 19 period in general what I remember from it.
 20 As time went on, I understood more of where
 21 we were going with the program; but during this time
 22 period, it's very difficult for me to answer.
 23 Q. So during this time period, it was your
 24 understanding that Walmart decided to make changes
 25 to its policy or process for identification of

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1 orders of interest because VAWD told it to do so?
 2 A. No, I don't think it's just strictly because
 3 of VAWD. I think my history at Walmart has been
 4 that we're always looking for ways to improve
 5 things. We have continuous improvement programs in
 6 place and that, you know, as time goes on, we look
 7 to make changes. So VAWD may have recommended some
 8 changes, but I can't say VAWD was the only reason
 9 that we would have made adjustments.
 10 Q. At this point in time Walmart was
 11 continuously improving, it was going to make changes
 12 to its policy, right?
 13 A. I was -- that was my view. I can't speak
 14 on -- I was telling you my view is, is that Walmart
 15 is always looking to make improvements.
 16 Q. And it's your view at this time Walmart was
 17 trying to make improvements to its suspicious --
 18 identification of orders of interest; is that right?
 19 A. My --
 20 MS. FUMERTON: Objection; form.
 21 A. My view is yes.
 22 Q. And what improvements were made?
 23 MS. FUMERTON: Objection; form.
 24 A. Say it one more time.
 25 Q. What improvements were being made at the

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1 time?
 2 A. Procedures potentially that were more
 3 definitive than what we had in place. Also, maybe
 4 different training tools we were looking at. There
 5 could have been a host of things we were looking at
 6 in the time period.
 7 Q. What procedures were not -- were not
 8 definitive in 2014, in September of 2014?
 9 MS. FUMERTON: Not -- objection; form,
 10 mischaracterizes his testimony.
 11 Q. I'll rephrase.
 12 Mr. Ducote, you testified that Walmart was
 13 improving procedures potentially that were more --
 14 more definitive than what we had in place.
 15 A. Yes.
 16 Q. What do you mean by that?
 17 A. I just think as time goes on on any
 18 procedure, as you implement something and you -- a
 19 part of a robust continuous improvement process is
 20 you continuously go back to refine processes. You
 21 look for -- you look for any -- I look at things
 22 from a zero-base mind-set, that ultimately your goal
 23 is to get to zero issues with anything you do, and
 24 so as we look through processes and procedures, we
 25 make sure we fine-tune them over -- as time goes on.

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1 Is that your question? Or maybe I
 2 misunderstood your question.
 3 Q. What's the -- what's the benchmark that
 4 you're trying to improve your policies to reach?
 5 MS. FUMERTON: Objection; form.
 6 A. Could you restate that question? I didn't
 7 understand that question.
 8 Q. Did -- in September of 2014, did Walmart
 9 believe its suspicious order monitoring policy was
 10 in line with the DEA's regulations?
 11 MS. FUMERTON: Objection; form.
 12 A. I can't speak on behalf of Walmart. Again,
 13 I was new into this role. I really don't know.
 14 Q. Did you believe that Walmart's policies and
 15 procedures met the suspicious order monitoring
 16 policy requirements as outlined by the DEA at the
 17 time?
 18 MS. FUMERTON: Objection; form.
 19 A. At the time, yes; but, again, it was during
 20 that transition time period. I still had a lot to
 21 learn about the process.
 22 Q. If you didn't fully understand the process
 23 at the time, how can you state that Walmart's
 24 policies and procedures met the suspicious order
 25 monitoring policy requirements as outlined by the

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1 DEA?

2 MS. FUMERTON: Objection; form, misstates

3 his prior testimony.

4 A. Oh, I'm sorry. I thought you were going to

5 reask something. Could you state --

6 MS. FUMERTON: No, if I object, which

7 clearly I'm going to --

8 THE WITNESS: Just --

9 MS. FUMERTON: -- you can go ahead --

10 THE WITNESS: Okay.

11 MS. FUMERTON: -- and just -- and answer --

12 THE WITNESS: It's just a pause at times, it

13 makes me think that --

14 MS. FUMERTON: No. No. That's okay. It's

15 not a normal conversation.

16 BY MR. INNES:

17 Q. What was the policy in 2014?

18 MS. FUMERTON: Objection; form.

19 Q. What was the suspicious order monitoring

20 policy in 2014 that -- maintained by Walmart, if

21 any?

22 MS. FUMERTON: Objection; form.

23 A. I just don't recall the exact details of it.

24 There -- there is a process to look at orders that

25 were of interest and just -- you know, that's four

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1 years ago during a transition of jobs. The first

2 two weeks I'm in a job to remember every specific is

3 extremely difficult; but you asked me in general did

4 I think that there was a process in place, and I

5 answered yes, I did. Do I know all the details of

6 it? I can't recall the details of it.

7 Q. At any point in time -- I'm sorry. I didn't

8 mean to cut you off.

9 A. No, I'm finished.

10 Q. At any point in time after you initially

11 started, did you become aware of any deficiencies in

12 Walmart's procedures for identify -- or suspicious

13 order monitoring procedures?

14 MS. FUMERTON: Objection; form.

15 A. When you use the word "deficiencies," I

16 think there can be conjecture on what a deficiency

17 is. I think there is improvements in how things

18 could have been handled, and that's what I focused

19 on, going back to that comment earlier about

20 continuous improvement, you know.

21 Going to a process that was maybe more

22 automated, going to a process that -- I mean,

23 there's a lot of things. So I don't think there was

24 deficiencies. I think there is improvements that

25 can be made, just to make sure I'm clear on that

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1 if -- earlier I made that comment, but --

2 Q. Tell me everything you know about Walmart's

3 suspicious order monitoring policy as it was stated

4 by Walmart in September of 2014.

5 MS. FUMERTON: Objection; form.

6 A. It's tough to tell you where to start

7 because, I mean, it was a very -- basically, if

8 orders were of a -- going back to -- and just to

9 make sure I'm going back to memory, I've stated

10 previously I don't remember all the details; but if

11 there were orders that were orders of unusual size,

12 there was a process in place to review those orders.

13 Q. What was that process?

14 A. I think in the document that you gave me

15 earlier, there was an outline that discussed that

16 process. I don't know if that was the process when

17 I first transitioned or when I was transitioning,

18 but I know it was during that transition period. I

19 think it was in Exhibit 3 or Exhibit 2.

20 Q. Do you want to look at Exhibit 3?

21 A. Whichever one that it's in. I'm not sure

22 which --

23 Q. Do you want to look at the one with the

24 process charts?

25 A. Yes. Which exhibit is that?

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1 Q. Do you have it there?

2 A. Yes, it was Exhibit 2.

3 Q. Do you recognize this as a policy or a

4 process, I'm sorry, that was implemented in 2014?

5 A. I think we're out -- I struggle to answer

6 your question somewhat. There were pieces of this

7 that were in place. To say that this was exactly

8 when I stepped into the role was in place, I

9 couldn't say every detail. I was only there for two

10 weeks, but pieces of this were in place.

11 Q. Let's go forward in time.

12 A. Okay.

13 Q. At any time during your tenure at Walmart,

14 was this the process that was in place?

15 A. Yes, this was an interim process that was

16 put in place.

17 Q. When was that?

18 A. I moved here in October, and it would

19 probably have been a month to two months after I

20 moved here that this was put into place. Yeah, I

21 recall -- the reason I recall the time period is

22 because it was two separate systems that the process

23 had to be put in place in, and one of the systems is

24 very unique system that's made in Austria that only

25 has one person that can update the software, and so

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1 it took -- it took time to have them update it.
 2 Q. By "system," you mean computer system?
 3 A. Order filling system where -- the actual
 4 system that order fills a product.
 5 Q. And there is two of them?
 6 A. Yes, there is two different systems.
 7 Q. And what are their names?
 8 A. Reddwerks and Knapp.
 9 Q. Is Knapp K-n-a-p-p?
 10 A. Yes, that's correct.
 11 Q. Was Reddwerks used in conjunction with
 12 opioids?
 13 MS. FUMERTON: Objection; form.
 14 A. Yes.
 15 Q. Was Knapp used in conjunction with opioids?
 16 MS. FUMERTON: Objection; form.
 17 A. Yes. They are both used with all products.
 18 Q. And what, generally speaking, is -- does
 19 Reddwerks do?
 20 A. Reddwerks, in a broad sense, is a warehouse
 21 management system; but specifically within this
 22 network, it was used for the picking environment,
 23 where order fillers pick an order.
 24 Q. And Knapp?
 25 A. Knapp is an automated order filling system,

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1 it's more robotic.
 2 Q. But both were used to fill opioid orders?
 3 MS. FUMERTON: Objection; form.
 4 A. Yes.
 5 Q. Are both used in the 6048 facility?
 6 A. No.
 7 Q. The 6045 facility?
 8 A. No.
 9 Q. At that time were they?
 10 A. The struggle, one was used in that facility,
 11 not both.
 12 Q. Which one was used in 6048?
 13 A. Neither.
 14 MS. FUMERTON: Objection; form.
 15 A. I think -- sorry. I answered your question.
 16 Neither was -- 6045 was Reddwerks was what
 17 we --
 18 MS. FUMERTON: That's okay.
 19 BY MR. INNES:
 20 Q. Reddwerks was used in 6045?
 21 A. Yes, that's correct.
 22 Q. Knapp was not used in 6045?
 23 A. No.
 24 Q. Okay. Was Knapp used in connection with
 25 Schedule III hydrocodone?

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1 A. Yes.
 2 Q. And what facility was that used in?
 3 A. 6001.
 4 Q. And that's before the rescheduling?
 5 A. Yes.
 6 Q. And when they rescheduled, they combined
 7 hydrocodone with all Schedule IIs; or you put all
 8 Schedule IIs in the 6045?
 9 A. That's correct.
 10 (Ducote Exhibit 5 was marked for
 11 identification.)
 12 BY MR. INNES:
 13 Q. We'll mark this as Plaintiffs' 5. Let me
 14 know when you have a chance to review it.
 15 This is an e-mail from Chad Ducote to Betty
 16 Strout on September 19th, 2014, it begins with Bates
 17 Number 16686.
 18 A. Okay. I've reviewed it.
 19 Q. So, Mr. Ducote, I want to start in the
 20 middle of this e-mail string, which is an
 21 e-mail sent about three-quarters of the way down the
 22 page.
 23 A. Uh-huh.
 24 Q. It's an e-mail from you --
 25 A. Yeah.

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1 Q. -- Chad Ducote, sent on April -- sorry,
 2 September 18th, 2014. So right around the time
 3 period that you're transitioning into the role; is
 4 that right?
 5 A. Yes.
 6 Q. It's sent to Betty Strout. Who is Betty
 7 Strout?
 8 A. Betty Strout was a HR personnel at the home
 9 office --
 10 Q. Okay.
 11 A. -- Walmart home office.
 12 Q. And who is Bryan Boudreaux?
 13 A. He was my boss at the time in that role.
 14 Q. What was his title?
 15 A. He was a senior vice president.
 16 Q. Of?
 17 A. Supply chain.
 18 Q. So the subject of this e-mail is "SOM
 19 position." "SOM" refers to suspicious order
 20 monitoring; is that correct?
 21 A. That is correct.
 22 Q. Okay. You write to Betty, again, on
 23 September 18th, of 2014: "Betty: Thanks for the
 24 response. Long-term I do see a larger structure
 25 you're referring to; yet in the short-term, I feel

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1 more comfortable with a smaller team to get the
2 process going. Then from there, grow it as we
3 fine-tune things (policies, algorithms, et cetera)."
4 What process are you referring to here?
5 A. I feel I was referring to our order
6 monitoring process that we were looking to improve
7 with policies and algorithms, things of that nature.
8 Q. Is the order monitoring policy different
9 than the suspicious order monitoring?
10 A. It encompasses that.
11 Q. You go on to say: "I have 19 years
12 experience in the pharmacy industry and for the
13 specific skill set we will be" -- "we will be need
14 in some" -- "in the SOM manager position, I truly do
15 not believe that we will recruit that talent in an
16 X4. Due to the exposure of this topic, the person
17 in this position has to be world class talent."
18 What position are you talking about?
19 A. So that was a position that Tim and I had
20 talked about that we ended up going a different
21 strategic route on, so that position actually never
22 came to fruition. We went a different route.
23 Q. What position was it exactly?
24 A. What we were looking to do, we were still
25 unsure at the time -- again, this was all during the

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1 time period where things were being adjusted -- we
2 were unsure -- if you go to the next paragraph, it
3 says there is a pharmacy division X7 level title
4 director of controlled substances.
5 We weren't quite sure what that role was
6 going to do because that was a new role. And so we
7 were, at the time, debating putting someone that was
8 more over the strategy to help drive some of those
9 long-term algorithms that we discussed, and that's
10 the role we were referring to. But that role
11 actually never -- the decision was made to place
12 that strategic component into the director of
13 controlled substances position.
14 Q. So based on your 19 years of experience in
15 the pharmaceutical industry -- in the pharmacy
16 industry, I'm sorry, and do the exposure of
17 suspicious order monitoring, you needed world class
18 talent, rights?
19 MS. FUMERTON: Objection; form, misstates
20 the document.
21 A. Yes, I feel you should always get the most
22 talented individual you can for a role. I mean,
23 that's a core component of something that I focus
24 on.
25 Q. And you didn't have that at the time; is

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1 that right?
2 A. Well, the position didn't exist at the time,
3 so --
4 Q. And you needed that position, correct?
5 MS. FUMERTON: Objection; form.
6 A. Restate your question.
7 Q. You wanted to fill a position, didn't you?
8 MS. FUMERTON: Objection; form.
9 A. No. That's -- if that's what you took from
10 what I said earlier, that's not what I meant.
11 We felt that there was -- we felt someone
12 needed -- there was a role that was needed but not
13 necessarily that role wasn't being done, it just
14 needed to be defined in a different way.
15 And that's what we had gone back and forth
16 on, that, you know, different individuals were doing
17 these roles or doing these different tasks, but
18 could we consolidate those down into one role, and
19 that's what I was referring to.
20 But, again, we made a decision to
21 consolidate into a role, but the role existed in
22 another place, not within that department.
23 Q. So was the idea to consolidate multiple
24 roles into one person, or was it to create a new
25 station or new slot?

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1 MS. FUMERTON: Objection; form.
2 A. That's a good question. I have to think
3 about that during that time period. Say that
4 question one more time, please.
5 Q. Let me break it into pieces.
6 Was the idea to consolidate multiple roles
7 into one role?
8 MS. FUMERTON: Objection; form.
9 A. No, that was not the objective.
10 Q. Was it to create a new position?
11 A. That's a tough question to answer because of
12 the fact it wasn't looking to necessarily create a
13 position. I know it sounds maybe contrary. It's
14 to -- it's -- at the time in the discussions with
15 Tim and going into what I felt, as long as with Tim,
16 that the improvements that long-term that he was
17 even looking at at some point, someone needed to
18 drive those, that needed to be their role.
19 Different people were doing it; but in any
20 corporate environment, if one person is more of a
21 driver of things, you can accomplish those faster,
22 and you can -- you can -- it's just a better setup,
23 and that's what we were referring to. But, again,
24 that role was created -- that role was being done.
25 It's -- am I confusing you on my response to

<p style="text-align: right;">Page 98</p> <p>1 that?</p> <p>2 Q. So at the time, September of 2014, who was</p> <p>3 doing what on your team with respect to suspicious</p> <p>4 order monitoring?</p> <p>5 MS. FUMERTON: Objection; form.</p> <p>6 A. At that time, Kristy Spruell was doing some</p> <p>7 components of it, Theresa Alford was doing some</p> <p>8 components of it, Ramona Sullins was doing some</p> <p>9 components of it, Nick Tallman was doing some</p> <p>10 components of it, and that was the immediate of my</p> <p>11 team. And beyond that, there were other individuals</p> <p>12 that weren't on my team that were doing it.</p> <p>13 Q. Who were they?</p> <p>14 A. I could not list every single person I --</p> <p>15 that was there. There is some that stick out in my</p> <p>16 head.</p> <p>17 Q. Who are they?</p> <p>18 A. Roxie. I don't remember Roxie's last name,</p> <p>19 Miranda Johnson was doing a few pieces of it.</p> <p>20 Brooke Leverett, which I could be incorrect about</p> <p>21 Brooke. Brooke was transitioning during the same</p> <p>22 time period. It may have been Donna -- I don't</p> <p>23 recall Donna's last name. And there was other</p> <p>24 individuals. I just can't remember every single</p> <p>25 person's name.</p>	<p style="text-align: right;">Page 100</p> <p>1 Was Ms. Spruell's role to go through</p> <p>2 policies and procedures and draft policies and</p> <p>3 procedures?</p> <p>4 A. I don't know if that's what her intended</p> <p>5 role was. She did draft some policies and</p> <p>6 procedures while I was there.</p> <p>7 Q. Do you know what policies and procedures she</p> <p>8 drafted?</p> <p>9 A. That's four years ago. And when we say</p> <p>10 "draft," "draft" doesn't -- just to make sure you</p> <p>11 and I are on the same page with this -- "draft"</p> <p>12 doesn't necessarily mean that it didn't exist</p> <p>13 before. Policies exist and they are updated; and as</p> <p>14 they are updated, drafts are created before the</p> <p>15 final ones are produced.</p> <p>16 So some of the things that she drafted are</p> <p>17 the order of interest. She also did drafts of --</p> <p>18 she did other drafts. I do not recall what the</p> <p>19 other drafts were. But there were several other</p> <p>20 things that Kristy did draft.</p> <p>21 MS. FUMERTON: Perhaps this is a good time</p> <p>22 to take a break? Then we can take our short</p> <p>23 break now and take another break at lunch.</p> <p>24 MR. INNES: One minute.</p> <p>25 Let's take a quick break, five -- five</p>
<p style="text-align: right;">Page 99</p> <p>1 Q. Specifically what was Ms. Spruell doing?</p> <p>2 A. Ms. Spruell was -- and, again, this is four</p> <p>3 years ago and still trying to understand exactly</p> <p>4 everyone's roles, not just Ms. Spruell's role; but</p> <p>5 she was put in place to help -- I don't know exactly</p> <p>6 her initial intent.</p> <p>7 I will tell you the intent whenever I took</p> <p>8 the role. When I took the role, what Kristy was</p> <p>9 doing was to go through each of the procedures and</p> <p>10 policies and just -- I'm sure you saw that flowchart</p> <p>11 just a minute ago. She was creating documents such</p> <p>12 as that for us.</p> <p>13 Q. Is the -- the flowchart you're referring to</p> <p>14 is Exhibit 2?</p> <p>15 A. Yes.</p> <p>16 Q. So her job -- was her job to create</p> <p>17 graphics, is that -- I just want -- strike that.</p> <p>18 You say her job was to go through each of</p> <p>19 the procedures and policies and create documents for</p> <p>20 us. What do you mean by that?</p> <p>21 MS. FUMERTON: Objection; form. It</p> <p>22 misstates the testimony.</p> <p>23 A. Could you restate your question?</p> <p>24 Q. Let me see if I can't target it a little bit</p> <p>25 more.</p>	<p style="text-align: right;">Page 101</p> <p>1 minutes.</p> <p>2 MS. FUMERTON: I will keep it as close to</p> <p>3 five minutes as we can.</p> <p>4 THE VIDEOGRAPHER: Going off record, the</p> <p>5 time is 10:21.</p> <p>6 (Recess from 10:21 a.m. until 10:31 a.m.)</p> <p>7 THE VIDEOGRAPHER: We're going back on the</p> <p>8 record, beginning of Media File Number 3. The</p> <p>9 time is 10:31.</p> <p>10 BY MR. INNES:</p> <p>11 Q. Okay. We're back on the record, Mr. Ducote.</p> <p>12 I want to pick up about where we left off.</p> <p>13 You -- it's your testimony that you don't know</p> <p>14 exactly what the policy was, the suspicious order</p> <p>15 monitoring policy was in September of 2014; is that</p> <p>16 correct?</p> <p>17 A. I think the way you're phrasing it is not</p> <p>18 what I said.</p> <p>19 Q. Do you know --</p> <p>20 A. I think --</p> <p>21 Q. -- exact --</p> <p>22 MS. FUMERTON: Oh, you both paused, which is</p> <p>23 fine. Just give each other time.</p> <p>24 BY MR. INNES:</p> <p>25 Q. We'll get it right.</p>

<p style="text-align: right;">Page 102</p> <p>1 A. Okay. Go ahead. Maybe I should let you 2 repeat the question to make sure I understand. 3 Q. Do you know what Walmart's suspicious order 4 monitoring policy was in 2014, in September of 2014? 5 A. So maybe I was -- 6 MS. FUMERTON: Objection; form. 7 A. Sorry. I was maybe unclear earlier. 8 I think the way I took your question 9 earlier, you were -- you were asking me exactly 10 every single detail if I knew, and I -- I can't 11 recall exactly what I said. But I had a general 12 awareness of what the policy was, and maybe that's 13 how I should have stated it earlier. 14 Q. And is it your testimony that that policy 15 that you were generally aware of at -- met the DEA's 16 requirements at the time? 17 MS. FUMERTON: Objection; form. 18 A. That, I couldn't answer. I really -- at the 19 time transitioning, I didn't specifically know what 20 the DEA requirements were, I was learning what those 21 were. So to be able to convey between the two, it 22 would be difficult for me to do. 23 Q. When did you learn what the DEA's 24 requirements were with respect to suspicious order 25 monitoring?</p>	<p style="text-align: right;">Page 104</p> <p>1 BY MR. INNES: 2 Q. Sure. Did you receive any training from 3 Walmart regarding the DEA's suspicious order 4 monitoring requirements, either -- in September of 5 2014? 6 MS. FUMERTON: Objection; form. 7 A. I don't recall in 2014 receiving any. At 8 some point, I did. 9 Q. What point in time was that? 10 A. The -- can I take a pause or -- because of 11 the comment. I'm a little bit confused between the 12 two of your comments. 13 Q. There's a question pending. Do you have -- 14 do you -- 15 MS. FUMERTON: There is a question pending. 16 I think it's about privilege. Can we have a 17 quick -- unless you want to rephrase it. I think 18 you might be able to rephrase it in a way that 19 possibly doesn't -- or I'm happy to take a quick 20 break and find out what the concern is. 21 MR. INNES: Just one second. The screen has 22 stopped moving. 23 I'm going to -- I'll reask the question. 24 MS. FUMERTON: Okay. 25 BY MR. INNES:</p>
<p style="text-align: right;">Page 103</p> <p>1 A. As time went on and I grew into the role, 2 transitioned into it and started to feel more 3 comfortable, I became much more aware. It wasn't 4 exactly in this time period you were asking me 5 about, though. 6 Q. When was the first time that you learned 7 about the DEA's suspicious order monitoring 8 requirements? 9 MS. FUMERTON: Objection; form. 10 A. In a broad sense, is that how you're asking 11 me the question? Just in general that there were 12 requirements, is that -- 13 Q. Yes. 14 A. Okay. It was around this time period when I 15 was first said, "Hey, there are some requirements." 16 Q. Did you ever receive any training from 17 Walmart on what those requirements are? 18 MS. FUMERTON: Objection; form. 19 And, obviously, just counsel, nothing that's 20 privileged or that you had conversations with 21 attorneys about, but outside of that context, you 22 can give training. I don't know that any such 23 exists. I'm just -- as we're wading into this, 24 wanting to just give the cautionary statement. 25 A. Could you reask that question?</p>	<p style="text-align: right;">Page 105</p> <p>1 Q. Did you receive any training from Walmart 2 regarding the DEA's suspicious order monitoring 3 requirements? 4 MS. FUMERTON: Objection; form. 5 A. Yes. 6 Q. Who did you receive that training from? 7 A. That's the part I'm confused on. So is it 8 privileged, nonprivileged? 9 MS. FUMERTON: Can we just -- I think -- 10 I'll be super quick. We'll just clear this up. 11 I just -- honestly it's not a big -- 12 MR. INNES: Well, it's a -- it's a yes-or-no 13 question whether or not he had training. 14 MS. FUMERTON: Well, he answered that. 15 MR. INNES: He answered that, and now we're 16 asking who he received the training from. 17 MS. FUMERTON: Yes, but let me just take a 18 quick -- 19 MR. BOWER: Well, let him answer the 20 question first and then you can take a break and 21 you can talk to him. 22 MS. FUMERTON: Well, he says that he's 23 wondering whether or not the answer would reveal 24 privileged information, so that's why I want to 25 talk --</p>

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<p>1 MR. BOWER: The name -- the name of a 2 trainer would not reveal privileged information. 3 MS. FUMERTON: I don't know what he's 4 thinking. I don't know what he's thinking of, 5 and so I don't want to have -- 6 MR. BOWER: We're just asking for a name. 7 MS. FUMERTON: No. That's not necessarily 8 the case. 9 MR. INNES: I'll ask it that way. 10 BY MR. INNES: 11 Q. What was the name of the person who trained 12 you in DEA suspicious order monitoring? 13 MS. FUMERTON: Objection; form. It assumes 14 a foundation you haven't established. 15 A. So the -- 16 Q. You can answer that question. 17 MS. FUMERTON: What -- 18 A. The training that was provided, I thought 19 was under privilege. I thought it was in a 20 situation that was by attorney, an attorney present, 21 not necessarily doing an attorney. 22 MS. FUMERTON: So if they're having -- this 23 is my point. This is why we never -- if you're 24 talking about training, you're talking about 25 something where they are getting legal advice as</p>	<p>1 the question correctly. 2 Q. Did anyone -- did any Walmart attorneys 3 instruct you regarding the requirements of the DEA's 4 suspicious order monitoring policies? 5 MS. FUMERTON: Yeah. I -- you can answer 6 the question. I'm objecting to that question. 7 I think you can phrase it another way to get 8 a yes-no answer in which it wouldn't reveal 9 potentially privileged information. 10 BY MR. INNES: 11 Q. Did you receive training regarding the DEA's 12 suspicious order monitoring policies from 13 nonlawyers? 14 MS. FUMERTON: Objection to the form; not a 15 privilege concern. 16 A. From my viewpoint, no. 17 Q. What do you consider to be "training"? 18 A. That's why I was asking that clarification 19 earlier. You're asking me what I consider training? 20 Q. Yeah. Yeah. 21 A. Okay. So the way I understood your question 22 earlier was training was more of a structured 23 environment to where necessarily we were in a room, 24 it could be online. I wasn't sure if you were 25 referring to training as that; or training as,</p>
Page 107	Page 109
<p>1 to what requirements are, that's legal advice and 2 attorney-client communication. That's why I have 3 the question. Because you guys might be talking 4 about different things of what you mean to be 5 training. 6 If he received training from somebody 7 outside of legal, then that's a different 8 question and, obviously, there is no problem 9 answering that question, but if what he's 10 thinking of, when you ask, "Did I receive 11 training," did he have communications with 12 lawyers which told him what the requirements 13 were, I think that that can be privileged 14 information. 15 That's what -- that's what -- look, I'm not 16 trying to be difficult. That's what I'm trying 17 to make a distinction between. 18 MR. INNES: Let me see if I can navigate it. 19 MS. FUMERTON: Okay. 20 BY MR. INNES: 21 Q. Did you receive training from lawyers 22 regarding the DEA's suspicious order monitoring 23 policies? 24 A. And when you say "training," define to me 25 what you mean by "training" to make sure I answer</p>	<p>1 "Here's material, read it, and you should understand 2 this"; or training could be in a one-on-one setting, 3 someone going over a document with you. That's why 4 I was confused about the question earlier, because 5 people have different interpretations of "training." 6 Q. As you understand the word "training," did 7 you receive any training regarding the DEA's 8 suspicious order monitoring policies? 9 MS. FUMERTON: Objection; form, and asked 10 and answered. 11 A. Are you -- you're not going to reask the 12 question? 13 Q. No, I'm not. 14 A. Okay. So from a lawyer/nonlawyer, because 15 the questions were different, the first one and 16 second one, so I just want to be clear. 17 MS. FUMERTON: Look, I'm saying I think can 18 we have a two-minute conversation which will make 19 your life a lot more easier right now that off -- 20 if we want to take a short break. 21 MR. INNES: I'll give you -- we'll go off 22 the record for two minutes. 23 MS. FUMERTON: Okay. 24 THE VIDEOGRAPHER: Going off the record. 25 The time is 10:40.</p>

<p style="text-align: right;">Page 110</p> <p>1 (Recess from 10:40 a.m. until 10:43 a.m.)</p> <p>2 THE VIDEOGRAPHER: Going back on the record,</p> <p>3 beginning of Media File Number 4. The time is</p> <p>4 10:43.</p> <p>5 BY MR. INNES:</p> <p>6 Q. Mr. Ducote, back on the record.</p> <p>7 We took a brief break so you could discuss</p> <p>8 with your counsel an issue related to privilege.</p> <p>9 I'm going to start up with that line of questioning</p> <p>10 again.</p> <p>11 A. Okay.</p> <p>12 Q. How -- what is your knowledge of the DEA's</p> <p>13 requirements with respect to suspicious order</p> <p>14 monitoring?</p> <p>15 A. I did have communication on it with</p> <p>16 different parties.</p> <p>17 Q. That's not the question. The question is:</p> <p>18 What is your knowledge of the DEA's requirements</p> <p>19 regarding suspicious order monitoring?</p> <p>20 A. Okay. Sorry. I thought I did answer your</p> <p>21 question.</p> <p>22 I do have a general knowledge of it.</p> <p>23 Q. What is that knowledge?</p> <p>24 A. What type of scale are you looking for? Are</p> <p>25 you looking for details of it? Can you give me --</p>	<p style="text-align: right;">Page 112</p> <p>1 should not be dispensed or distributed?</p> <p>2 MS. FUMERTON: Objection; form.</p> <p>3 A. I think, in general, it's controlled</p> <p>4 substances is what -- what the guidelines are</p> <p>5 looking at.</p> <p>6 Q. And an opioid is a controlled substance?</p> <p>7 A. It's one of them. There's also drugs of</p> <p>8 interest and things of that nature.</p> <p>9 Q. And this case is focused on opioids. You</p> <p>10 know that, right?</p> <p>11 A. I think you stated that earlier, yes.</p> <p>12 Q. Is that your understanding, that this case</p> <p>13 involves the distribution of opioids by Walmart?</p> <p>14 MS. FUMERTON: Objection; form.</p> <p>15 A. I thought earlier you said this case</p> <p>16 involved the distribution of multitude, not just</p> <p>17 Walmart.</p> <p>18 Q. I'm asking about your understanding of this</p> <p>19 case that you are sitting in a deposition for.</p> <p>20 A. Restate it again just to make sure.</p> <p>21 Q. I'm asking what your understanding is of the</p> <p>22 complaint and the allegations in the complaint as</p> <p>23 they relate to Walmart?</p> <p>24 A. Yes.</p> <p>25 MS. FUMERTON: Okay. Objection; form. And</p>
<p style="text-align: right;">Page 111</p> <p>1 Q. Mr. Ducote --</p> <p>2 A. -- some guidance.</p> <p>3 Q. I'm sorry.</p> <p>4 A. Go -- no, go ahead. I'm sorry.</p> <p>5 Q. Mr. Ducote, as part of your responsibilities</p> <p>6 in that -- in the role that you started in September</p> <p>7 of 2014 was to implement suspicious order monitoring</p> <p>8 policies; is that correct?</p> <p>9 A. Policies were already implemented or</p> <p>10 procedures, going back to the earlier conversation,</p> <p>11 but it was oversight of it.</p> <p>12 Q. And were your duties also to execute those</p> <p>13 policies?</p> <p>14 A. Yes.</p> <p>15 Q. And was it your job to oversee other Walmart</p> <p>16 employees who executed those policies?</p> <p>17 A. Yes.</p> <p>18 MS. FUMERTON: Objection; form.</p> <p>19 Q. And those policies directed at suspicious</p> <p>20 order monitoring were put in place to meet the DEA's</p> <p>21 requirements; is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. And part of the DEA's requirements are to</p> <p>24 make sure that opioids, Schedule II, Schedule III</p> <p>25 narcotics are not diverted into places where they</p>	<p style="text-align: right;">Page 113</p> <p>1 I object to the extent that you're asking a</p> <p>2 privileged question. He earlier testified he did</p> <p>3 not read the complaint. And so the extent that</p> <p>4 he has learned about what any allegations are in</p> <p>5 this case from counsel, those communications are</p> <p>6 privileged.</p> <p>7 MR. INNES: Limit the speaking objections,</p> <p>8 if you don't mind.</p> <p>9 MS. FUMERTON: Okay. Fine. I'm objecting</p> <p>10 to that question as privileged and instructing</p> <p>11 him not to answer.</p> <p>12 BY MR. INNES:</p> <p>13 Q. What is your understanding of what this case</p> <p>14 is about?</p> <p>15 A. My understanding is, from earlier what you</p> <p>16 told me about, it was a case regarding opioids and</p> <p>17 it was distribution and you mentioned several, and</p> <p>18 that's what my understanding is.</p> <p>19 Q. Okay. So as the person in charge for the</p> <p>20 health and wellness logistics that oversaw the</p> <p>21 execution of policies regarding the suspicious order</p> <p>22 monitoring and opioids --</p> <p>23 A. Yes.</p> <p>24 Q. You only have a general sense of what the</p> <p>25 DEA's requirements are?</p>

<p style="text-align: right;">Page 114</p> <p>1 MS. FUMERTON: Objection; form.</p> <p>2 Q. Is that correct?</p> <p>3 A. Okay. Your question is more definitive this</p> <p>4 time than the last time.</p> <p>5 I understood -- that's a tough question to</p> <p>6 answer because, yes, I understand in general; but I</p> <p>7 do understand core components of it. But if I -- I</p> <p>8 think you're pushing towards a question of exactly</p> <p>9 what level of detail, I couldn't answer that.</p> <p>10 That's the most impossible question to answer.</p> <p>11 Q. What core components do you know of?</p> <p>12 A. That orders of interest should -- unusual</p> <p>13 size, frequency. The -- the core components of what</p> <p>14 our program was and what you'll see in some of the</p> <p>15 documentation I'm sure you will present to me later</p> <p>16 is those are the things I understand regarding it.</p> <p>17 Q. Mr. Ducote, are you aware that under federal</p> <p>18 law, all manufacturers and distributors are required</p> <p>19 to maintain effective controls against diversion?</p> <p>20 A. Yes.</p> <p>21 Q. When did you become aware of that?</p> <p>22 A. I could not tell you exactly when. I am</p> <p>23 aware of it. I just couldn't tell you when.</p> <p>24 Q. 2013?</p> <p>25 A. I really don't know exactly when.</p>	<p style="text-align: right;">Page 116</p> <p>1 Q. And you became aware of that in 2015?</p> <p>2 A. It's know definitively yes, during that time</p> <p>3 period. Again, same answer as before.</p> <p>4 Q. So not before 2014?</p> <p>5 A. No. Just unsure if it's before 2014 or</p> <p>6 2015.</p> <p>7 Q. Are you aware that registrants are also</p> <p>8 required to inform local DEA field office of</p> <p>9 suspicious orders when they are discovered?</p> <p>10 MS. FUMERTON: Objection; form.</p> <p>11 A. That one -- what is the date of the document</p> <p>12 you're reading? Because I think that may have</p> <p>13 changed over time.</p> <p>14 Q. I'm asking you a question.</p> <p>15 A. So reread it, please.</p> <p>16 Q. When did you become aware that registrants</p> <p>17 are required to inform a local DEA field office of</p> <p>18 the suspicious orders when they are discovered?</p> <p>19 MS. FUMERTON: Objection; form.</p> <p>20 A. That answer is difficult for me because it</p> <p>21 could be convoluted. Because I know in my head the</p> <p>22 assumption is in 2015, about the same time period;</p> <p>23 but there was some activity in 2017 that I think is</p> <p>24 causing me to have some confusion if there was</p> <p>25 something that came out in 2017 that changed that</p>
<p style="text-align: right;">Page 115</p> <p>1 Q. Before or after 2013?</p> <p>2 A. I'd be guessing. I prefer not to guess.</p> <p>3 Q. Were you aware of it in 2015?</p> <p>4 A. Yes.</p> <p>5 Q. Were you aware of it in 2014?</p> <p>6 A. I don't know if in 2014 -- I don't --</p> <p>7 Q. So sitting here today, you can say</p> <p>8 definitively you were aware of that particular</p> <p>9 requirement as of 2015?</p> <p>10 A. Yeah, I do know that.</p> <p>11 Q. Okay.</p> <p>12 A. Yes.</p> <p>13 Q. You're aware the DEA regulations require all</p> <p>14 manufacturers and distributors to report suspicious</p> <p>15 orders of controlled substances?</p> <p>16 A. Yes.</p> <p>17 Q. And when did you first become aware of that?</p> <p>18 A. It goes back to the earlier comments. I</p> <p>19 definitively could tell you 2015. 2014, I'm still</p> <p>20 unsure.</p> <p>21 Q. You're aware the Code of Federal Regulations</p> <p>22 requires registrants to design and operate a system</p> <p>23 to disclose -- disclose to the registrant suspicious</p> <p>24 orders of controlled substances; is that correct?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 117</p> <p>1 premise by the DEA.</p> <p>2 Q. So you may have become aware of that</p> <p>3 particular -- that particular statement in 2017?</p> <p>4 A. No. I mean, well, not necessarily. I --</p> <p>5 20 -- it seems as though in 2017 something changed.</p> <p>6 I can't recall which change, if that changed, it</p> <p>7 went away from that, or if that got clarified in</p> <p>8 2017. I know something happened in around 2017 or</p> <p>9 20 -- late 2016 on that particular item. So that's</p> <p>10 why it's difficult for me to answer.</p> <p>11 Q. You're aware that suspicious orders are</p> <p>12 orders of unusual size, orders deviating from --</p> <p>13 substantially from the normal pattern, and orders of</p> <p>14 unusual frequency; is that correct?</p> <p>15 A. Yes.</p> <p>16 MS. FUMERTON: Objection to form.</p> <p>17 Q. When did you first learn of that definition</p> <p>18 of a suspicious order?</p> <p>19 MS. FUMERTON: Objection; form.</p> <p>20 A. I know definitively in 2015, but I -- it</p> <p>21 seem as though in 2014, when I was transitioning</p> <p>22 into the role, there was some conversation of that</p> <p>23 particular item.</p> <p>24 Q. And what was the conversation surrounding</p> <p>25 that particular item?</p>

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1 A. I think, going back to -- it seems like one
2 of the earlier exhibits you showed me, that came up
3 in conversations before.
4 Q. Can you be more specific?
5 A. Can you give me a second?
6 I think it's in Exhibit 2, I mean pieces of
7 that, not in the full context of what you stated;
8 but there are some pieces at that time I do remember
9 coming up as conversation.
10 Q. What were -- what was -- what do you
11 remember from those conversations specifically?
12 A. Just in general about the unusual size.
13 Q. And what about the unusual size?
14 A. I don't remember the details.
15 Q. Was Walmart focused on orders of unusual
16 size at that time period?
17 MS. FUMERTON: Objection; form.
18 A. Could you state that one more time?
19 Q. Did Walmart consider orders of unusual size
20 at that time frame -- in that time frame with
21 respect as to suspicious order monitoring policy?
22 MS. FUMERTON: Objection; form.
23 A. Going back to the earlier comments, we had
24 an order monitoring process in place. I assume that
25 was a key component of it, but I couldn't tell you

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1 definitively.
2 Q. You don't know?
3 A. I don't know if going back to before I
4 started the role and and till we transitioned to
5 this process here, the answer would be no, I don't
6 know exactly.
7 Q. When did -- when do -- to your knowledge,
8 when did Walmart first consider orders of unusual
9 size as part of its suspicious order monitoring
10 program?
11 MS. FUMERTON: Objection; form.
12 A. I know definitively during the time period
13 starting around that October/November time period I
14 told you. It does seem as though later in the role,
15 I came across something that had additional
16 information. I just don't remember what the dates
17 were on that document.
18 Q. So as part of your day-to-day job in that --
19 in your position at that time --
20 A. Uh-huh.
21 Q. -- the entire four-year time period, was
22 orders of unusual size something that came up on a
23 daily basis?
24 MS. FUMERTON: Objection; form.
25 A. I wouldn't say a daily basis.

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1 Q. A weekly basis?
2 A. Yes.
3 MS. FUMERTON: Objection; form.
4 Q. On a weekly basis as it pertained to
5 Schedule II narcotics?
6 A. All controlled substances, again, just to
7 make sure we're clear on that; but, yes, it would
8 include Schedule II narcotics.
9 Q. And opioids?
10 A. Yes.
11 Q. Do you agree that determination of whether
12 an order is suspicious depends not only on the
13 ordering patterns of a particular customer, or
14 pharmacy in your case, but also on the patterns of
15 the registrant's customer base and the patterns
16 throughout the relevant segment of that regulated
17 industry?
18 MS. FUMERTON: Okay. Objection; form.
19 A. I mean, I have to reread your question.
20 That was a long question.
21 And just to be clear, I'm not an attorney.
22 To interpret rules and regulations, that we're on
23 the same page on that, just I think that we are.
24 So your question, the part I'm a little
25 confused on is that latter part. Are you reading

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1 straight from the regulations, or is that more --
2 Q. I'm asking if you agree with that statement.
3 A. Okay. So that's what -- just agree or
4 disagree with the statement?
5 Q. Yes, sir.
6 A. Sorry. I was confused on your question
7 earlier.
8 I agree that it was something that was taken
9 into account during the time period I was in the
10 role.
11 Q. And your prior testimony was that -- well,
12 strike that.
13 Do you agree that a registrant is required
14 to design and operate a system to disclose
15 suspicious orders of controlled substances?
16 A. Yes.
17 Q. And you agree Walmart is a registrant; is
18 that correct?
19 A. Yes.
20 Q. And "operate" means that you follow those --
21 the system to disclose; is that correct?
22 MS. FUMERTON: Objection; form.
23 A. I don't understand that question.
24 Q. Well, as a registrant, Walmart is required
25 to design and operate a system to disclose

<p>Page 122</p> <p>1 suspicious orders of controlled substances; is that 2 right? 3 A. Yes. 4 Q. And by "design," that means develop a 5 suspicious order monitoring program; is that 6 correct? 7 A. Yes. 8 Q. And by "operate" means to execute that plan, 9 correct? 10 A. Yes. 11 Q. So if that plan is not executed properly, 12 you would agree that Walmart would not be operating 13 a system to disclose suspicious orders, correct? 14 MS. FUMERTON: Objection; form. 15 A. I don't agree with the overall question. 16 Q. What don't you agree with? 17 A. I think -- reread the question before I add 18 on. 19 Q. Walmart -- let me -- let's break it down. 20 A. Okay. 21 Q. Walmart has a suspicious order monitoring 22 policy in place in September of 2014, correct? 23 A. Yes. 24 Q. Walmart developed that plan on its own, 25 correct, or in conjunction with other third parties?</p> <p>Page 123</p> <p>1 A. Yes. 2 MS. FUMERTON: Objection; form. 3 A. Sorry. Yes. 4 Q. For Walmart to -- did Walmart execute that 5 plan, correct? Did it -- Walmart execute the plan 6 that it -- that it developed to identify suspicious 7 order of controlled substances? 8 MS. FUMERTON: Objection; form. 9 A. What my experience was, that I saw was yes, 10 we were, we did. 11 Q. Why do you say that? 12 MS. FUMERTON: Objection; form. 13 A. Going back to our earlier conversations, I 14 saw, when I came into the role, the amount of 15 resources that were put into it, so there was an 16 ample amount of resources. So you asked what my 17 opinion was. My opinion was yes, it was being 18 executed because I saw the other resources and 19 processes that were in place. 20 Q. You wanted to change those resources when 21 you came on board; is that right? 22 MS. FUMERTON: Objection; form. 23 A. I did want to look at some different 24 changes. I think anyone that goes into a new role 25 does try to look at what the next iteration of that</p>	<p>Page 124</p> <p>1 role looks like. 2 Q. Who was executing the policy when you came 3 on board? 4 MS. FUMERTON: Objection; form. 5 A. There's not one person that was executing 6 it. It's an organizational -- it's a collective 7 body of different individuals because the process 8 has different steps in it. 9 Q. And you had a person on each step of the 10 way? 11 A. From what I saw, yes, I felt that there was. 12 Q. And what did each one of these people do in 13 the process? 14 MS. FUMERTON: Objection; form. 15 A. You know, again, you're -- the questions all 16 seem to revolve around the time period when I was 17 transitioning into the role, but -- 18 Q. Can -- well, I didn't mean to interrupt. 19 A. Yeah, go ahead. I don't know if I can 20 answer that question ample -- amply. Go ahead. 21 Q. So you transitioned from being a general 22 manager of a distribution center, and you came into 23 a department at Walmart that was heavily regulated 24 by the DEA, right? And it had certain specific 25 requirements that you had to -- that your policies</p> <p>Page 125</p> <p>1 and procedures had to meet; isn't that right? 2 MS. FUMERTON: Objection; form. 3 A. Yes, generally right. 4 Q. And you -- and you learned about those 5 policies -- you learned about those regulatory 6 requirements on the job; is that right? 7 A. Yes. 8 Q. You didn't have subject matter expertise 9 when you took that job; is that right? 10 A. No. 11 MS. FUMERTON: Objection; form. 12 Just give me a second to object. 13 THE WITNESS: Sorry. 14 BY MR. INNES: 15 Q. Mr. Ducote, are you aware of -- that -- 16 excuse me -- in 2007, 2008, Cardinal Health paid \$34 17 million in fines for violating the CSA? 18 MS. FUMERTON: Objection; form. 19 A. I do recall at some time period, I was made 20 aware of that. Who made me aware, how, I don't 21 remember; but I do recall someone making me aware of 22 that. 23 Q. So I'm going to ask you a series of 24 yes-or-no questions. 25 A. Okay.</p>
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1 Q. In '08, are you -- were you aware that
2 McKesson paid \$13 million for lack of reporting
3 violation of the CSA?
4 MS. FUMERTON: Objection; form.
5 A. Yes.
6 Q. Are you aware that in 2011, Omnicare paid
7 more than -- paid \$50 million in a settlement for
8 lack of monitoring under the CSA?
9 MS. FUMERTON: Objection; form.
10 A. No, I don't remember that one.
11 Q. And are you -- are you aware in 2012, the
12 state of West Virginia sued 14 wholesale
13 distributors for lack of monitoring under the CSA?
14 MS. FUMERTON: Objection; form.
15 A. You said "yes" or "no," but seemingly I do.
16 I don't know if there's a third option.
17 MS. FUMERTON: You don't have to answer the
18 question "yes" or "no." If -- I want you to
19 answer the question carefully.
20 A. It does seem like I've heard of that one.
21 BY MR. INNES:
22 Q. Yes or no, do you know that CVS paid \$13
23 million for CSA violations from 2005 to 2011?
24 MS. FUMERTON: Objection; form.
25 A. Again, I'm generally aware that CVS had some

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1 issues. I don't recall the specifics.
2 Q. Are you aware that in 2012/2013 time frame,
3 the federal government served a subpoena on
4 AmerisourceBergen for lack of monitoring under the
5 CSA?
6 A. Yes, I am aware.
7 Q. How did you become aware of that?
8 A. That one --
9 MS. FUMERTON: And I just object to the
10 question to the extent that you learned from
11 attorneys. If you learned otherwise, fair game.
12 A. I do not know who specifically, but I
13 just -- I know that I was aware of that one.
14 Q. Is it someone from Walmart?
15 A. I don't know. I really don't remember.
16 Q. Is it someone from AmerisourceBergen?
17 A. It wouldn't have been from
18 AmerisourceBergen. It could have been in the lay
19 press. It could have been a trade journal. It
20 could have been on the Internet. It could have been
21 from -- a trade show or something. I'm really not
22 100 percent sure.
23 Q. Are you aware that in 2013, Walgreens paid
24 more than \$80 million in fines to settle a DA probe
25 for lack of monitoring under the CSA?

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1 MS. FUMERTON: Objection; form.
2 A. Yes, I was aware of that one.
3 Q. Were you aware it lost a facility in Florida
4 for over one year, along with six other pharmacy
5 locations in Florida under that same settlement?
6 MS. FUMERTON: Objection; form.
7 A. No, I wasn't aware of all those details. I
8 was just aware high level.
9 Q. Are you aware that in 2013, CVS was being
10 investigated for 37,000 in missing pain pills in
11 three California locations?
12 MS. FUMERTON: Objection; form.
13 A. I don't recall California, but I do remember
14 CVS in general.
15 Q. Are you aware that as of 2013 at that time
16 period, that at that time, CVS had already paid \$29
17 million in fines?
18 MS. FUMERTON: Objection; form.
19 A. I don't recall that.
20 Q. Mr. Ducote, you came on board in September
21 of 2014 into the division that was -- I believe your
22 testimony could be summarized as executing the
23 logistical requirements for distribution of
24 Schedule II opioids; is that right?
25 MS. FUMERTON: Objection; form.

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1 A. Again, that was my view when I came into the
2 role, that we were, yes.
3 Q. Uh-huh. Right. That was a big life change,
4 moving from general manager, moving your family from
5 Opelousas up to Bentonville, Rogers?
6 A. Uh-huh.
7 Q. You're taking on a lot of responsibility.
8 Did these fines and subpoenas and lawsuits against
9 your -- against folks in the pharmaceutical
10 distribution world, the world that you were
11 operating in, that you were now in charge of, did
12 that make you nervous at the time?
13 MS. FUMERTON: Objection; form.
14 A. I wouldn't say it made me nervous. It made
15 me more astute, cognitive of to making sure that as
16 I transitioned into the role, I spent the time with
17 the different individuals as referred to earlier
18 learning of the different processes and programs we
19 had in place.
20 Q. I suspect that would be a natural thing to
21 do. And when you sat -- when you entered the role
22 and you investigated and educated yourself, I assume
23 as to what Walmart was doing at the time with
24 respect to the CSA?
25 MS. FUMERTON: There's not a question

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1 pending.

2 Q. When you entered the role, you investigated

3 and educated yourself regarding what Walmart was

4 doing with respect to the CSA?

5 MS. FUMERTON: Objection.

6 Q. When you entered the role, did you educate

7 yourself with respect to Walmart's policies and

8 procedures with respect to suspicious order

9 monitoring?

10 A. I began to. Going back to the one exhibit

11 you showed me, yes.

12 Q. And what else did you do --

13 MS. FUMERTON: Objection; form.

14 Q. -- to educate yourself regarding Walmart's

15 suspicious order monitoring policies that were in

16 place in September of '14?

17 A. Okay. Okay. Let's -- so one of the things

18 we talked about earlier, different meetings with

19 different individuals. I touched bases, sit downs,

20 things of that nature, which is typical, going back

21 to your point earlier.

22 I did go to different websites and reviewed

23 websites and what was out there.

24 Q. What websites did you go to?

25 A. I think someone recommended -- there was a

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1 recommendation of one website. It's not the DEA's

2 official website. I think they have a different

3 website. I've read through some of the information

4 on there that was recommended. Just really most of

5 it was through meetings and talking with different

6 individuals at the office.

7 Q. Did you go to the DEA's website?

8 A. I don't think it's actual -- their DEA.gov

9 or whatever it is. I think there's a different

10 website they have that someone had recommended I

11 look at in one of the meetings.

12 Q. And what did you find on that website?

13 A. Basically what you read earlier in a

14 nutshell, just in general terms. I mean, everything

15 you read, I don't recall seeing all -- every

16 specific; but, in general, some of the things you

17 read is what was on there.

18 Q. And you did that around September of '14?

19 A. I would say probably more in the October

20 time period. September, going back to your earlier

21 comment, is focused on moving; selling a house,

22 buying a house, moving family, pets, things like

23 that.

24 Q. So October 2014 is when you -- when you

25 perused the DEA's website?

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1 A. I would say in that time period, October,

2 November. I'm giving you a general time frame, I

3 don't know exactly, but it's in that time frame.

4 Q. Because earlier you testified you thought

5 maybe January or 2015 is when you originally learned

6 about these requirements.

7 MS. FUMERTON: Objection; form, misstates

8 his prior testimony.

9 A. Say your question again.

10 Q. Yeah. My recollection of your testimony is

11 that you first learned these -- the requirements

12 that we read off earlier in 2015?

13 A. Okay.

14 Q. Now you're telling me you went to the

15 website in 2014?

16 MS. FUMERTON: Okay; form.

17 A. The way you were asking me the question

18 earlier --

19 Q. Yeah.

20 A. -- it was specific to the regulation to read

21 each regulation. You know, if that's the impression

22 I'm giving you now, that's not -- I said I went to

23 the website. It doesn't mean I read every single

24 regulation.

25 Q. Oh.

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1 A. And then, again, I'm giving you a ballpark

2 of the time period. I don't know exactly the exact

3 dates of it, October, November, December, January,

4 it could be in that time range. It seems like it's

5 October, November, though.

6 Q. So in terms of educating yourself regarding

7 the DEA's requirements regarding suspicious order

8 monitoring, you said you went to a website?

9 A. Yes. I seemingly recall.

10 Q. What else did you do?

11 A. Most of it was meetings, different touch

12 bases around the office. That first few months was

13 a whirlwind of just in general. Plus on top of

14 that, I was traveling to each of the facilities to

15 meet the actual managers in them. So that's why I

16 submit the time periods are a little hard to pin

17 down as specific as you want.

18 Q. I can appreciate the transition, moving

19 between states and taking a new job would be

20 overwhelming. Did it feel overwhelming to you?

21 MS. FUMERTON: Objection; form.

22 A. Overwhelming in more of getting everything

23 done; but personally overwhelming, I was okay with

24 it.

25 Q. So getting everything done in terms of your

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1 job at Walmart, your new position, that was
2 difficult given the travel schedule; is that
3 correct?
4 MS. FUMERTON: Objection; form.
5 A. The other thing which can bring up -- I
6 wasn't going to bring up earlier. You don't just
7 leave a job in supply chain at that time of year.
8 This is the busiest. This is Christmas season.
9 This is Thanksgiving.
10 So the previous job, it's not like one day I
11 just cut off and said, "Hey, I'm done." I had to
12 continue to help the new person, because the new
13 person didn't start immediately.
14 So, yes, it was difficult because I was also
15 in transitioning of assisting the other operation.
16 Q. So your transition with the job that Walmart
17 posted, that you applied for --
18 A. Yes.
19 Q. -- that you accepted, that you took, which
20 involved the execution of policies that -- for
21 Walmart to comply with suspicious order monitoring
22 of opioids, you took that role in the busiest
23 season?
24 A. For --
25 MS. FUMERTON: Well --

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1 MR. INNES: Is that his testimony?
2 A. Yeah.
3 MS. FUMERTON: You -- you -- okay.
4 Objection; form. You keep making statements but
5 not questions, but --
6 A. It was the busiest season for the previous
7 location. Maybe I was unclear on that.
8 So in the previous, this next week is "black
9 Friday." So a product has to be shipped in stores
10 by then. So in October leading into November is the
11 busiest time period of the previous job I was
12 leaving. That's what I was referring to.
13 BY MR. INNES:
14 Q. Did you feel at that time that you couldn't
15 fully commit to this new job?
16 A. No.
17 MS. FUMERTON: Objection; form.
18 A. No, I did -- I didn't. I just -- you asked
19 the question about being overwhelmed. I wasn't
20 overwhelmed, but it was extremely busy.
21 Q. So you -- are you -- were you doing parts of
22 your old job while you were rolling in to your new
23 job?
24 MS. FUMERTON: Objection; form.
25 A. Yes, I was.

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1 (Ducote Exhibit 6 was marked for
2 identification.)
3 BY MR. INNES:
4 Q. I'm going to hand you what's been marked as
5 Plaintiffs' 6. Let me know when you've had a chance
6 to review that.
7 A. Okay. Okay. I've had time to review it.
8 Q. Mr. Ducote, this is an e-mail from Kristy
9 Spruell to Theresa Alford and Chad Ducote on
10 November 23rd, 2014, 5:30 in the morning, "Subject:
11 SOM review." It begins on Bates 9158.
12 Mr. Ducote, this is -- this is November of
13 2014. Are you still in what some people refer to as
14 the "on boarding process" into this new role?
15 A. On boarding, typically our company refers to
16 a time where they go through benefits and stuff, so
17 I wasn't in a per se on boarding; but I would
18 consider transitioning, learning about the role,
19 learning the responsibilities, yes.
20 Q. Thank you. Okay.
21 And was this -- did this document help you
22 learn about Walmart's suspicious order monitoring
23 project progress?
24 MS. FUMERTON: Objection; form.
25 A. Could you repeat the question for me, make

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1 sure I have that correct?
2 Q. Was this one of the documents that you used
3 to educate yourself?
4 A. I do remember this document. I wouldn't say
5 I used it to educate. It helped educate me to a
6 certain degree, but it wasn't -- maybe I -- maybe
7 I'm misstating -- yes, did I -- did it -- did I
8 learn something from it?
9 Yes, the answer -- I think you learn
10 something from everything that you read, for the
11 most part; but it wasn't the education only
12 document, if that's what you're referring to. Maybe
13 I -- is that what your question was?
14 Q. I want to know if this is one of the
15 documents that you used to review to educate
16 yourself when you first took the job, yes or no?
17 A. This document, during the transition time
18 period, was something that was provided to me, yes.
19 Q. And did you remember reading it at the time?
20 A. Yes.
21 MS. FUMERTON: Just for a clarification for
22 the record, there is writing on this document,
23 and so didn't -- it looks like an e-mail, so
24 would it have been something that would have come
25 out from ours, but maybe it did; do you know?

<p style="text-align: right;">Page 138</p> <p>1 Q. I am not going to say for sure but --</p> <p>2 MS. FUMERTON: Are we confident this is not</p> <p>3 on there? We're confident this is not on there.</p> <p>4 MR. INNES: Yeah.</p> <p>5 MS. FUMERTON: Okay.</p> <p>6 MR. INNES: I'm going to clean it up.</p> <p>7 I'm confident that that was not on there,</p> <p>8 and that's our mistake. That's a copy of a</p> <p>9 draft. That is not part of the original</p> <p>10 document. We can get the original document.</p> <p>11 MS. FUMERTON: That's fine, or we can just</p> <p>12 stipulate for the record. We don't need to be</p> <p>13 that complicated. I just wanted to make sure.</p> <p>14 We'll stipulate for the record that that --</p> <p>15 MR. INNES: I will stipulate for the record</p> <p>16 that that is a mark that I made and it was copied</p> <p>17 into the witness's exhibit.</p> <p>18 MS. FUMERTON: Okay. And so just to be</p> <p>19 clear, it's an arrow on Page 9159 of Exhibit 6.</p> <p>20 BY MR. INNES:</p> <p>21 Q. So the top of page -- of the page ending in</p> <p>22 Bates 9159, which is Page 2 of the exhibit, you will</p> <p>23 see four column headers, starting at the left:</p> <p>24 "Beginning of SOM enhancement project"; second</p> <p>25 column "Today"; third column "Q1 Fiscal Year" --</p>	<p style="text-align: right;">Page 140</p> <p>1 Q. So I'm going to go to -- this is a little</p> <p>2 difficult, I realize, because it looks like the</p> <p>3 cells are split across two pages, but I'm referring</p> <p>4 to -- I want to direct your attention to Column 1,</p> <p>5 the third or fourth cell down, it says "Policies."</p> <p>6 A. Yes.</p> <p>7 Q. Do you see that?</p> <p>8 A. Uh-huh.</p> <p>9 Q. And that continues onto the second page, top</p> <p>10 of the second page, I believe?</p> <p>11 MS. FUMERTON: Where the arrow is.</p> <p>12 MR. INNES: Right.</p> <p>13 MS. FUMERTON: That's why I -- I just wanted</p> <p>14 to short-circuit that.</p> <p>15 MR. INNES: Tipped my hand on that one.</p> <p>16 BY MR. INNES:</p> <p>17 Q. So reading from left to right: SOM -- "SOM</p> <p>18 policy did not include processes for evaluating</p> <p>19 'Orders of Interest' or reporting 'Suspicious</p> <p>20 Orders.'"</p> <p>21 Is that right?</p> <p>22 A. That's what's stated on there.</p> <p>23 Q. Okay.</p> <p>24 A. But that's not what's correct.</p> <p>25 Q. I'm sorry?</p>
<p style="text-align: right;">Page 139</p> <p>1 "FY16 - End of Phase 1"; Column 4, Future - Phase 2</p> <p>2 and 3."</p> <p>3 Was it your understanding, Mr. Ducote, when</p> <p>4 you took the job, that this was the timeline that</p> <p>5 you were to follow for the development of the</p> <p>6 suspicious order monitoring project?</p> <p>7 MS. FUMERTON: Objection; form.</p> <p>8 A. I think that this was one view of that, not</p> <p>9 necessarily what was decided upon. Going back to</p> <p>10 your question, these were things that were being</p> <p>11 handed to me as I stepped into the role, so things</p> <p>12 that changed as time went on.</p> <p>13 Q. Looking at the second column that says</p> <p>14 "Today," do you believe that to be in and around</p> <p>15 11/23 of 2014, which is the date of this -- the</p> <p>16 e-mail?</p> <p>17 A. I -- there seems like there was something</p> <p>18 with this document whenever Kristy had sent it to</p> <p>19 me, having a conversation with her about it, about</p> <p>20 some of the information. I don't remember if it was</p> <p>21 about that. I've just got to think about that for a</p> <p>22 second.</p> <p>23 The assumption I would make, though, looking</p> <p>24 at the document, that, yes, today of the date that</p> <p>25 the document was sent to me, so yes.</p>	<p style="text-align: right;">Page 141</p> <p>1 A. That's not -- that's what's stated on there,</p> <p>2 but that's not what's correct.</p> <p>3 Q. How do you know that not to be correct?</p> <p>4 A. Going back to and talking about the</p> <p>5 transition, so whenever, going into the role, you</p> <p>6 have different people who were sending different</p> <p>7 documents. And to a certain degree at the time, I</p> <p>8 may have questioned things, but a lot of things I</p> <p>9 had to take at face value that were presented.</p> <p>10 This one was presented. I remember in</p> <p>11 general -- I mean every single detail, I don't</p> <p>12 remember every single detail -- but I do remember</p> <p>13 some of the stuff on this left column, as I learned</p> <p>14 more about the role and understood what was going</p> <p>15 on, I don't think some of Kristy's viewpoint on this</p> <p>16 information was correct. Or it was maybe skewed to</p> <p>17 her version of what things meant.</p> <p>18 Q. Do you have any idea what policies she's</p> <p>19 referring to?</p> <p>20 MS. FUMERTON: Objection; form.</p> <p>21 A. At the time, no. Later on, it seemed that</p> <p>22 she was referring to there was some procedure out</p> <p>23 there about order limits. I don't remember what it</p> <p>24 was titled or what it was, but I think that's what</p> <p>25 she was referring to.</p>

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1 Q. So when you say that that's wrong, when you
 2 base -- you're basing that on -- on what?
 3 MS. FUMERTON: Objection; form.
 4 A. Basing on time in the role and experience.
 5 I think as time went on, you know, Kristy's view,
 6 her use of the word "no" -- I think just in general,
 7 as I got to know Kristy and working with her, she
 8 used words at times that were very definitive even
 9 though the situation wasn't definitive, that it was
 10 something that her and I had conversations with in
 11 general.
 12 So I don't know if I answered your question,
 13 though. Maybe you should reask your question. I
 14 think --
 15 Q. Is it your --
 16 A. -- I got off on a tangent there.
 17 Q. Is it your under -- is it your testimony
 18 that every Walmart SOM policy for the entire time
 19 frame that ever had a suspicious order monitoring
 20 policy included a process for orders of interest,
 21 for evaluating orders of interest?
 22 MS. FUMERTON: Objection; form.
 23 A. That, I couldn't say. I don't know if every
 24 single one ever had.
 25 Q. Can you say that every one had a reporting

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1 for suspicious orders?
 2 MS. FUMERTON: Objection; form.
 3 A. I can say the ones that I was in the role
 4 that came out did. Beyond that, I'm not sure the
 5 policy per se had it. I really wouldn't know. I
 6 mean --
 7 Q. What was the policy in January of 2015
 8 for -- strike that.
 9 Could I direct your attention to Row 2 --
 10 A. Yes.
 11 Q. -- Column 3, right under "Q1 FY16"?
 12 A. Okay.
 13 Q. These -- what does it mean by "People" on
 14 that first cell there?
 15 A. It's a general term at Walmart, "people,"
 16 "process," "behaviors." It's just used to describe
 17 personnel in general.
 18 Q. So: "Tiered evaluation and review processes
 19 for all alerted orders (system driven)," what does
 20 that mean?
 21 A. Reddwerks is what Kristy was referring to.
 22 Q. Okay. And that wasn't in place in -- at the
 23 time of this e-mail, correct?
 24 A. No. And that's where I go back to earlier.
 25 I think as I was in the role and learned more,

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1 Kristy was incorrect on some of her assessment of
 2 this. There was a process in Reddwerks. It wasn't
 3 necessarily a tiered process, but there was a
 4 process. So I think she jumped to a conclusion on
 5 that.
 6 Q. The -- when did Reddwerks -- when was
 7 Reddwerks implemented for suspicious order
 8 monitoring?
 9 MS. FUMERTON: Objection; form.
 10 A. I can only speak to the time period that I
 11 was in the role. But there -- the components that
 12 we put in, the testing had been started around the
 13 time period I was in role. January, I think we did
 14 some additional tests, and I think it rolled out
 15 later on.
 16 But that's the tiered piece. There were
 17 other pieces that were in place prior to that that
 18 were in Reddwerks. The parts I'm familiar with were
 19 around that time periods, the tiered piece.
 20 Q. You're talking about -- what year is this
 21 you're speaking about?
 22 A. The more -- the tiered piece I'm referring
 23 to, the implementation of that one was probably
 24 around March to May of 2015, that time period.
 25 But there were -- just to be clear, there

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1 were other pieces in place prior, because FY16 is
 2 actually from February of 2015 to January of 2016,
 3 so I'm talk -- it refers to what they said.
 4 Q. Just keep that document handy. You don't
 5 have to stick it back in the pile yet because I
 6 might come back to it.
 7 (Ducote Exhibit 7 was marked for
 8 identification.)
 9 BY MR. INNES:
 10 Q. What was your understanding of the -- of
 11 Walmart's suspicious order monitoring policy in
 12 January of 2015?
 13 A. That was -- we had a term for what it was.
 14 I don't remember the exact term. But it was a more
 15 middle -- it was between the tiered process in
 16 Reddwerks driving it and the previous process that
 17 was in place when I started the role. It was a
 18 middle -- middle time period. It lasted from maybe
 19 that November/December time period to when Reddwerks
 20 with the tiered went full, which was maybe going
 21 back to I think I said May, June, that time period.
 22 Q. And in January of 2015, did the system flag
 23 controlled orders that were over 50 bottles?
 24 MS. FUMERTON: Objection; form.
 25 A. Yes. I feel that it did. I won't say 100

<p style="text-align: right;">Page 146</p> <p>1 percent. I'm pretty confident it did.</p> <p>2 Q. Did it flag controls that were 30 percent</p> <p>3 higher than the last four-week average?</p> <p>4 A. 30 percent, that was discussed when I was in</p> <p>5 the role. I just don't remember on it because we</p> <p>6 were transitioning to that new process. I didn't</p> <p>7 focus a lot on some of the math that was behind what</p> <p>8 was going on currently. I do recall them talking</p> <p>9 about 30 percent.</p> <p>10 I don't know how it works, though. I know</p> <p>11 the 50 and there was something about 30 in</p> <p>12 Reddwerks, 30 percent.</p> <p>13 Q. And your boss at the time was Bryan</p> <p>14 Boudreaux?</p> <p>15 A. Yes.</p> <p>16 Q. This is Plaintiffs' Exhibit 7. This is an</p> <p>17 e-mail from Bryan Boudreaux to Chad Ducote on</p> <p>18 January 16th, 2015, beginning Bates 8147.</p> <p>19 A. Okay. I've looked over it.</p> <p>20 Q. What is Bryan asking you for here?</p> <p>21 A. That's a good question. I didn't read it</p> <p>22 from that perspective.</p> <p>23 Q. Let me see if I can direct you. You're</p> <p>24 responding to Bryan halfway down, or middle of the</p> <p>25 page. I believe his question is: "Can you give me</p>	<p style="text-align: right;">Page 148</p> <p>1 Q. What do you mean by 20 -- what do you mean</p> <p>2 by 20 bottles?</p> <p>3 A. I think there was a specific item. They</p> <p>4 just had the system flagging at 50, which going back</p> <p>5 to your 30, that's what I seem to remember at the 30</p> <p>6 percent. The oxycodone was 20 bottles. There was a</p> <p>7 different limit for oxycodone.</p> <p>8 Q. Why was there a different limit for</p> <p>9 oxycodone?</p> <p>10 A. I do not know that.</p> <p>11 Q. Who would know that?</p> <p>12 MS. FUMERTON: Objection; form.</p> <p>13 Q. Who would know why there was a limit to</p> <p>14 oxycodone?</p> <p>15 MS. FUMERTON: Objection; form.</p> <p>16 A. That would have to be someone that was in</p> <p>17 role prior to me -- or not necessarily in my role,</p> <p>18 but in that area prior because that's when it was</p> <p>19 set.</p> <p>20 Q. Tim Harris might know that?</p> <p>21 MS. FUMERTON: Objection; form.</p> <p>22 A. I couldn't speak on behalf of Tim.</p> <p>23 Q. Possible?</p> <p>24 A. Possible, yes.</p> <p>25 Q. When you say "in the system," what system</p>
<p style="text-align: right;">Page 147</p> <p>1 a high level of what this is?"</p> <p>2 Do you know what he's referring to of "what</p> <p>3 this is"?</p> <p>4 A. Yeah. Yes, I do. Typically whenever we do</p> <p>5 any type of systems change, it's an outage is what</p> <p>6 it's called. "Outage" can -- can mean the systems</p> <p>7 aren't operating in that time period, which is --</p> <p>8 there's always a risk with a system not operating.</p> <p>9 It may not come back when it is, so we put a high</p> <p>10 priority whenever there is an outage.</p> <p>11 So Bryan was copied, it looked like, or</p> <p>12 someone copied Bryan -- yeah, Bryan was copied by</p> <p>13 Miranda. But it was just a general question, "Hey,</p> <p>14 what is this," because I don't know if he was aware</p> <p>15 of the specific details.</p> <p>16 He knew of the program, what we were doing.</p> <p>17 I just don't know if he knew about the outage in</p> <p>18 detail, and that's what he was asking.</p> <p>19 Q. So you say: "Right now the system flags</p> <p>20 controlled orders that are over 50 bottles or 30</p> <p>21 percent higher than the last four-week average.</p> <p>22 Oxycodone has a different metric."</p> <p>23 What was the different metric for oxycodone</p> <p>24 at the time?</p> <p>25 A. From what I recall, it was 20 bottles.</p>	<p style="text-align: right;">Page 149</p> <p>1 are you referring to?</p> <p>2 A. Reddwerks, which goes back to my earlier</p> <p>3 testimony about there was a system in place, so --</p> <p>4 Q. And when did Reddwerks -- so let me back up.</p> <p>5 Prior to your entering the role, was</p> <p>6 Reddwerks in place?</p> <p>7 A. Yes.</p> <p>8 Q. When did Reddwerks start, approximately?</p> <p>9 A. Approximately maybe 2008, 2009, in that time</p> <p>10 period.</p> <p>11 Q. Okay. And when did Reddwerks become</p> <p>12 involved in the suspicious order monitoring problem?</p> <p>13 MS. FUMERTON: Objection; form.</p> <p>14 A. Yeah. I don't know specifically when they</p> <p>15 did. They were involved whenever I was</p> <p>16 transitioning into the role.</p> <p>17 Q. Was -- what's the basis for your testimony</p> <p>18 that Reddwerks was starting -- started to be used in</p> <p>19 2008, 2009?</p> <p>20 A. We had to sign new contracts with Reddwerks.</p> <p>21 I think on an annual basis you had a service</p> <p>22 contract.</p> <p>23 Q. Uh-huh.</p> <p>24 A. And so not in the role just for what we're</p> <p>25 discussing today, but just in general for warehouse</p>

<p style="text-align: right;">Page 150</p> <p>1 management systems, I seem to recall 2008, 2009 as</p> <p>2 one of the time periods they mentioned to me.</p> <p>3 Q. Was Reddwerks, in 2008, 2009, used for --</p> <p>4 used by Walmart in context other than Schedule II</p> <p>5 narcotics?</p> <p>6 A. Yes.</p> <p>7 Q. Do you know when Reddwerks -- when Walmart</p> <p>8 used Reddwerks in the context of Schedule II</p> <p>9 narcotics?</p> <p>10 MS. FUMERTON: Objection; form.</p> <p>11 A. I don't know exactly when it started. It</p> <p>12 was in place, though, when I started the role.</p> <p>13 Q. Okay. Was it in place at the facility that</p> <p>14 distributed Schedule IIs?</p> <p>15 A. Yes.</p> <p>16 Q. Was it being used for the distribution of</p> <p>17 Schedule IIs --</p> <p>18 MS. FUMERTON: Objection.</p> <p>19 Q. -- at that time?</p> <p>20 MS. FUMERTON: Sorry. Objection; form.</p> <p>21 A. Yes, in a broad sense. It was the order</p> <p>22 filling system.</p> <p>23 Q. Reddwerks was the order filling system at</p> <p>24 the Schedule II facility in September/October of</p> <p>25 2014?</p>	<p style="text-align: right;">Page 152</p> <p>1 Page 5 of the slide deck, there is a number at the</p> <p>2 bottom left-hand corner.</p> <p>3 A. Okay.</p> <p>4 Q. I want to make sure that we're not talking</p> <p>5 past each other. So I understand that Reddwerks was</p> <p>6 in place at 6045, but what I believe that I'm more</p> <p>7 interested in is the Reddwerks upgrade.</p> <p>8 A. Okay.</p> <p>9 Q. So at a certain point in time, did Walmart</p> <p>10 decide to upgrade its Reddwerks system as it applied</p> <p>11 to suspicious order monitoring?</p> <p>12 MS. FUMERTON: Objection; form.</p> <p>13 A. We decided to make some improvements to it.</p> <p>14 Q. Okay. And when were those improvements</p> <p>15 implemented at 6045?</p> <p>16 A. I do not know exactly at 6045. It had to be</p> <p>17 in the 2015 time period, in the first half of the</p> <p>18 year. I just don't know exactly when.</p> <p>19 Q. So if you look at the cover e-mail, you</p> <p>20 write to Kristy: "I thought we talked about waiting</p> <p>21 to roll out 45 until after the relocation in order</p> <p>22 to not add additional burdens to the move."</p> <p>23 Is that correct or do I have that wrong?</p> <p>24 A. Yes, that's what I stated.</p> <p>25 Q. Was that correct, was your understanding</p>
<p style="text-align: right;">Page 151</p> <p>1 A. Yes.</p> <p>2 MR. INNES: Go off the record for a moment.</p> <p>3 THE VIDEOGRAPHER: Going off record. The</p> <p>4 time is 11:37.</p> <p>5 (Recess from 11:37 a.m. until 11:38 a.m.)</p> <p>6 THE VIDEOGRAPHER: Going back on record,</p> <p>7 beginning of Media File 5. The time is 11:38.</p> <p>8 BY MR. INNES:</p> <p>9 Q. Mr. Ducote, I'm going to hand you what's</p> <p>10 been marked as Plaintiffs' Exhibit 8.</p> <p>11 (Ducote Exhibit 8 was marked for</p> <p>12 identification.)</p> <p>13 A. Okay. I've had time to do a quick glance at</p> <p>14 it.</p> <p>15 BY MR. INNES:</p> <p>16 Q. So this is an e-mail from Chad Ducote to</p> <p>17 Kristy Spruell and Ramona Sullins dated 5/14/2015</p> <p>18 beginning on Bates 19339. It has an attachment.</p> <p>19 That attachment is titled "SOM Overview 2015." I</p> <p>20 believe it's a PowerPoint file that attached, the</p> <p>21 native.</p> <p>22 So it's important for me to nail down the</p> <p>23 timeline of when Reddwerks was rolled out and the</p> <p>24 suspicious order monitoring program was rolled out</p> <p>25 to all the facilities, right? And if you turn to</p>	<p style="text-align: right;">Page 153</p> <p>1 correct at the time, that you were going to wait to</p> <p>2 roll out 45?</p> <p>3 A. No. That was a question that I posed to</p> <p>4 Kristy, or maybe I misunderstood your question.</p> <p>5 Reask that question.</p> <p>6 Q. All right. When did you originally plan to</p> <p>7 roll out Reddwerks update to 6045?</p> <p>8 A. That is really difficult because you</p> <p>9 never -- you don't roll out directly, you pilot</p> <p>10 stuff. As you pilot it then you work out any</p> <p>11 potential issues in it, then you have a rollout. It</p> <p>12 seems as though it was in the spring of 2015. I</p> <p>13 just don't recall exactly.</p> <p>14 Q. What's the -- what's the relocation that</p> <p>15 you're referring to?</p> <p>16 A. We made a decision to relocate 6045 from</p> <p>17 Bentonville, Arkansas, to Rogers, Arkansas.</p> <p>18 Q. And what additional -- well, you say here:</p> <p>19 "...in order to not add additional burdens to the</p> <p>20 move."</p> <p>21 What additional burdens are you referring</p> <p>22 to?</p> <p>23 A. What I was referring to is to pilot</p> <p>24 something during a move, I wasn't sure if that would</p> <p>25 shut the systems down. Moving a facility and a</p>

<p>Page 154</p> <p>1 vault is a pretty -- it's a pretty big deal. So I</p> <p>2 was unsure of all the technicalities behind it and</p> <p>3 that's what I was referring to.</p> <p>4 Q. What were the -- I believe you called them</p> <p>5 enhancements to the Reddwerks system. What were</p> <p>6 those specifically?</p> <p>7 A. Specifically, every one I couldn't list out,</p> <p>8 but in a nutshell the enhancements were to make some</p> <p>9 of the processes that we were doing more automated,</p> <p>10 that they were in the system, so it just flowed</p> <p>11 smoother and there wasn't as many delays or as many</p> <p>12 potential delays or as many different screens you</p> <p>13 had to go, it's what we were looking to do.</p> <p>14 Q. And how did that relate to the distribution</p> <p>15 of Schedule II narcotics?</p> <p>16 MS. FUMERTON: Objection; form.</p> <p>17 A. That -- you would have to narrow that</p> <p>18 question down then, because initially my answer</p> <p>19 would be no change per se, but I'm not sure what you</p> <p>20 mean.</p> <p>21 Q. So -- so let's start with this premise.</p> <p>22 This is -- the slide deck is titled, Suspicious</p> <p>23 Order Monitoring.</p> <p>24 A. Okay.</p> <p>25 Q. The first -- the second page of the slide</p>	<p>Page 156</p> <p>1 potential diversion, is that correct?</p> <p>2 MS. FUMERTON: Objection; form.</p> <p>3 A. I don't know what the DEA uses it for. I</p> <p>4 mean, I know what is written here and in general,</p> <p>5 but I'm not sure if they do use it or not.</p> <p>6 Q. Do you agree DEA guidance indicates that</p> <p>7 orders of interest must not be shipped in whole or</p> <p>8 in part unless they are deemed nonsuspicious?</p> <p>9 MS. FUMERTON: Objection; form.</p> <p>10 A. What was your question again?</p> <p>11 Q. Do you agree with that statement as written</p> <p>12 on this document, fourth bullet from the bottom?</p> <p>13 A. Yes, I do.</p> <p>14 Q. If, for instance -- well, strike that.</p> <p>15 I want you to turn to the third page,</p> <p>16 please. Last bullet at the bottom says: "DEA has</p> <p>17 not pursued any additional enforcement to our plans</p> <p>18 for SOM enhancements."</p> <p>19 Is that correct?</p> <p>20 A. Which bullet point were you on?</p> <p>21 Q. I'm sorry. It's the bottom of the page,</p> <p>22 just above the bar.</p> <p>23 A. Okay.</p> <p>24 Q. It's in bold.</p> <p>25 A. Yes. I see the statement. What was the</p>
<p>Page 155</p> <p>1 deck was regulatory requirements for the suspicious</p> <p>2 order monitoring program, it says: "Distributors</p> <p>3 are required to have a process to identify and</p> <p>4 disclose suspicious orders of controlled substances</p> <p>5 to the DEA."</p> <p>6 That's correct?</p> <p>7 A. Yes.</p> <p>8 Q. Do you agree with the substance to that</p> <p>9 statement?</p> <p>10 A. At this point in time, yes.</p> <p>11 Q. Was there a point in time when you didn't</p> <p>12 agree with that?</p> <p>13 A. No. Just earlier there was some lack of</p> <p>14 clarity about when I became aware of it.</p> <p>15 Q. Well, certainly by this time you were aware</p> <p>16 of it, correct?</p> <p>17 A. Yeah, uh-huh.</p> <p>18 Q. And now we're into May of 2015?</p> <p>19 A. Yes.</p> <p>20 Q. You agree you have to identify orders of</p> <p>21 unusual size, frequency that is changed from a</p> <p>22 normal pattern?</p> <p>23 MS. FUMERTON: Objection; form.</p> <p>24 A. Yes.</p> <p>25 Q. Okay. DEA used this information to identify</p>	<p>Page 157</p> <p>1 question again on it?</p> <p>2 Q. Have the DEA pursued enforcement actions due</p> <p>3 to your plans for suspicious order monitoring?</p> <p>4 MS. FUMERTON: Objection; form.</p> <p>5 A. The answer is no, the DEA has not. Is that</p> <p>6 the question?</p> <p>7 Q. Yeah. So what's the import of "pursued any</p> <p>8 additional enforcement"?</p> <p>9 A. I am not sure of exactly what that comment</p> <p>10 means.</p> <p>11 Q. Sitting here today you're not aware of any</p> <p>12 enforcement by the DEA regarding the suspicious</p> <p>13 order monitoring, is that right?</p> <p>14 A. Yes, that is correct, I'm not.</p> <p>15 Q. The DEA chose not to pursue any additional</p> <p>16 enforcement due to the plans for SOM enhancements.</p> <p>17 What were those enhancements?</p> <p>18 A. Those enhancements were what I was referring</p> <p>19 to earlier, about making the process where it flowed</p> <p>20 through the systems better, which is the next slide,</p> <p>21 basically, and who was going to do the order</p> <p>22 reviews, how they were going to do them and things</p> <p>23 of that nature.</p> <p>24 Q. Okay. Let's talk about that. The next</p> <p>25 page, you're already on, page four, suspicious order</p>

<p style="text-align: right;">Page 158</p> <p>1 monitoring process flow. 2 A. Yes. 3 Q. An order of interest is identify by the 4 Reddwerks system, how is that -- how does the 5 Reddwerks system identify an order of interest at 6 the time of this in May 2015? 7 A. I don't -- going back to the earlier 8 comment, I don't know if the updated process was in 9 place. Based on this, this is off of the updated 10 process. That's how I'm going to answer the 11 question. So it would identify an order of interest 12 using a store item combo that was some statistics 13 that was put together by Mu Sigma in conjunction 14 with us. 15 Q. Let's unpack that a little bit. What's a 16 store item combo? 17 A. A store item combo is something -- it's a 18 term we use -- most retailers use this term. It's 19 this is the store and these are the items that are 20 carried in it. And so for a pharmacy in this 21 situation is a store and the items would be the 22 pharmaceuticals, and then the statistics were 23 applied to that, that data. 24 Q. What statistics are you talking about? 25 A. Mu Sigma.</p>	<p style="text-align: right;">Page 160</p> <p>1 organization, not just specifically -- they are a 2 statistical analysis consulting firm. 3 Q. Does Walmart ever enter into an agreement 4 with a third party without a contract? 5 MS. FUMERTON: Objection; form. 6 A. When you said contract earlier, I was 7 thinking long-term service contracts. We do ad hoc 8 things where it is just one time. So yes there is a 9 contract but it's not my definition of a contract 10 that you would have with a vendor that services you 11 over the year. So my misunderstanding of the use. 12 Q. So you were assuming there would be a 13 contract between Mu Sigma and Walmart and by 14 contract I mean an assigned written agreement to 15 perform work? 16 MS. FUMERTON: Objection; form. 17 A. Let me read that question. 18 That it would -- there would be some type of 19 signed agreement. 20 Q. Thank you. 21 A. Typically short-term things like that may 22 not be called contracts, again, so just for 23 clarification. 24 Q. What data was provided to Mu Sigma to 25 perform their analysis?</p>
<p style="text-align: right;">Page 159</p> <p>1 Q. Could you spell Mu Sigma for me? 2 A. M-u S-i-g-m-a. 3 Q. Is Mu Sigma a vendor? 4 A. They're a consulting firm. 5 Q. Where are they located at? 6 A. I do not know where they are located at. 7 Q. What exactly did Mu Sigma do in this 8 context? 9 A. So Mu Sigma was when I started in the role, 10 they had already done some analysis and the data 11 that they provided was basically thresholds and 12 ranges for us to use within our Reddwerks system. 13 Q. What analysis had they done? 14 A. I'm not aware. I mean, I'm generally aware 15 of what they did. I don't know the details. It was 16 done before I started in the role. I just saw the 17 after -- the end product. 18 Q. Does Walmart have a contract with Mu Sigma 19 at that time? 20 A. I do not know. 21 Q. Did they have a contract at any time during 22 your role? 23 MS. FUMERTON: Objection; form. 24 A. I'm not sure if it was a contract or just an 25 ad hoc basis, but Mu Sigma is used throughout the</p>	<p style="text-align: right;">Page 161</p> <p>1 MS. FUMERTON: Objection; form. 2 A. I do not know what data was on that front 3 side, I don't know what was supplied to them. 4 Q. What do you mean by front side? 5 A. Going back to the earlier testimony, the 6 analysis was done before I started in the role, so I 7 saw the end product. I don't know exactly what 8 details were provided. 9 Q. What did the end product tell you? 10 MS. FUMERTON: Objection; form. 11 A. Sorry. The end product provided thresholds 12 and ranges that were used in the Reddwerks 13 enhancement system, enhancement. Sorry. 14 Q. So the Reddwerks enhancement took into 15 account this analysis that was provided by Mu Sigma? 16 A. Yes. 17 Q. Based on data that was provided by whom? 18 MS. FUMERTON: Objection; form. 19 A. Data was -- I'd have to make the assumption 20 it was provided by us to them. I don't know 100 21 percent. 22 Q. And you said thresholds and you also said 23 ranges. Could you define thresholds, please? 24 A. Probably one in the same. I probably used 25 the terms interchangeably, but a threshold would be</p>

<p style="text-align: right;">Page 162</p> <p>1 a specific number. The ranges, what I'm referring 2 to, there is ranges of thresholds, but a threshold 3 is a specific number. 4 Q. Number of what? 5 MS. FUMERTON: Objection; form. 6 A. In this particular situation, the threshold 7 is number of bottles. 8 Q. Number of bottles of opioids, for instance? 9 MS. FUMERTON: Objection; form. 10 A. Number of bottles of -- of medications, 11 included noncontrols also. 12 Q. What were the thresholds and ranges of 13 thresholds used for in your suspicious order 14 monitoring process flow? 15 MS. FUMERTON: Objection; form. 16 A. The thresholds and ranges were used for the 17 alerts that the system identified. 18 Q. So we're still in Cell Number 1; is that 19 right? 20 A. Oh, I'm sorry. No. I'm not in Cell 1. I'm 21 in -- well, maybe I am in Cell 1. Let me just think 22 for a second. Yes, I'm in Cell 1. 23 Q. Okay. So an order is placed by a pharmacy, 24 that order is -- what happens next in this process? 25 MS. FUMERTON: Objection; form.</p>	<p style="text-align: right;">Page 164</p> <p>1 MS. FUMERTON: Objection; form. 2 Q. What other metrics, if any, is Reddwerks 3 applying to that order? 4 MS. FUMERTON: Objection; form. 5 A. There are other metrics. I don't know 6 exactly what those metrics are, but there are other 7 metrics. 8 Q. Is over 50 bottles a metric? 9 MS. FUMERTON: Objection. Form. 10 A. In this time period that we're discussing, I 11 don't remember if that was still one of the metrics 12 or not. 13 Q. How about 20 bottles of OxyContin -- 14 oxycodone, for example? 15 MS. FUMERTON: Objection; form. 16 A. I don't remember at this time period exactly 17 if that was still the metric for that particular 18 item. 19 Q. How about 30 percent over a four-week moving 20 average? 21 MS. FUMERTON: Objection; form. 22 A. I think we may be confusing our different 23 time periods here. During this time period I don't 24 recall if that was or not. 25 Q. What time period is this?</p>
<p style="text-align: right;">Page 163</p> <p>1 A. After an order is placed, it would go 2 into -- how much detail do you want? Because this 3 is literally a five-hour conversation of how orders 4 are -- 5 Q. Unfortunately, we don't have five hours. 6 A. I can talk five hours on this if you want. 7 Q. If Tara would let you, I would. If you're 8 offering. 9 MS. FUMERTON: I don't know what time we 10 have left on the record. 11 A. So basically, they download into a system 12 that orders then get sent to Reddwerks server and 13 then that's where you are seeing this order of 14 interest piece come into play. 15 Q. Okay. And Reddwerks is looking for -- is 16 taking an order and evaluating it against a 17 threshold? 18 A. Yes. 19 Q. Also evaluating against a range of 20 thresholds? 21 A. No, a threshold. 22 Q. Just a threshold? 23 A. A threshold. 24 Q. Is that the only metric that Reddwerks is 25 applying to that order?</p>	<p style="text-align: right;">Page 165</p> <p>1 A. This is the time period of the new tiered 2 approach that we discussed earlier. 3 Q. Right. I'm trying to ascertain whether or 4 not in this -- we're talking about 2014 before, 5 right? 6 A. Yes. 7 Q. And then at some point in time before you 8 take on the role, Walmart has decided that it's 9 going to roll out an enhanced suspicious order 10 monitoring process flow; is that correct? 11 A. That's right. 12 Q. Part of that is involving now the Reddwerks 13 system? 14 MS. FUMERTON: Objection; form. 15 Q. Is that correct? 16 A. It's partially correct. It's always 17 involved the Reddwerks system, but yes. 18 Q. But now we are adding -- now Walmart is 19 adding some enhancements to Reddwerks as it relates 20 to suspicious order monitoring; is that right? 21 A. Yes. 22 Q. Okay. And one of those enhancements is the 23 establishment of thresholds by Mu Sigma, right? 24 MS. FUMERTON: Objection; form. 25 A. In partnership with Mu Sigma --</p>

<p style="text-align: right;">Page 166</p> <p>1 Q. In partnership with Mu Sigma.</p> <p>2 A. I want to be clear about that.</p> <p>3 Q. I'm interested about that clarification.</p> <p>4 What is important about the partnership here?</p> <p>5 A. I think when you stated it to me, it gave</p> <p>6 the impression that Mu Sigma would have been doing</p> <p>7 it in isolation and it wasn't.</p> <p>8 Q. Walmart provided data to Mu Sigma?</p> <p>9 A. Yes.</p> <p>10 MS. FUMERTON: Objection to form.</p> <p>11 Q. Yes. On the terms of the contract Mu Sigma</p> <p>12 did an analysis --</p> <p>13 MS. FUMERTON: Object. I am sorry. I'm</p> <p>14 sorry. Go ahead. I interrupted you. I didn't</p> <p>15 mean to.</p> <p>16 THE COURT REPORTER: I didn't get it either.</p> <p>17 MS. FUMERTON: You were going fast.</p> <p>18 Q. When my blood sugar drops, I start to --</p> <p>19 I want to focus on Cell 1, before we move to</p> <p>20 Cell 2?</p> <p>21 A. Okay.</p> <p>22 Q. I'm trying to figure out what the</p> <p>23 enhancements were to the Reddwerks system as it</p> <p>24 relates to suspicious order monitoring. I believe</p> <p>25 you've testified that you worked in partnership --</p>	<p style="text-align: right;">Page 168</p> <p>1 Q. Was that because that was outside of your</p> <p>2 purview of your job title?</p> <p>3 MS. FUMERTON: Objection; form.</p> <p>4 A. No, I wouldn't say that. I think if you're</p> <p>5 saying every metric, I mean they use metrics all the</p> <p>6 way down to the cube of a bottle, the centimeters of</p> <p>7 it. I wouldn't know that level of detail. I mean,</p> <p>8 that's way beyond what's plausible to know.</p> <p>9 Q. Okay. So maybe I can focus this. I'm</p> <p>10 sure -- it sounds like Reddwerks does more than just</p> <p>11 orders, identifying orders of interest.</p> <p>12 I'm curious to know what metrics was</p> <p>13 Reddwerks using at that time to identify orders of</p> <p>14 interest?</p> <p>15 A. What you stated earlier is --</p> <p>16 Q. Those two?</p> <p>17 A. That's my general understanding, yes.</p> <p>18 Q. I broke my own rule.</p> <p>19 Who is the -- the threshold and the</p> <p>20 threshold range are the two metrics?</p> <p>21 MS. FUMERTON: Objection; form.</p> <p>22 A. That I'm aware of, yes.</p> <p>23 Q. Okay. Earlier you testified that metrics</p> <p>24 that were being used prior to these enhancements,</p> <p>25 included a 50-bottle threshold, right?</p>
<p style="text-align: right;">Page 167</p> <p>1 that Walmart worked in partnership with Mu Sigma to</p> <p>2 develop thresholds and threshold ranges; is that</p> <p>3 correct?</p> <p>4 A. Yes.</p> <p>5 Q. Was there anything else that Mu Sigma</p> <p>6 provided to Walmart in this context?</p> <p>7 A. Not that I'm aware of.</p> <p>8 Q. Okay. So I'm thinking of -- I am thinking</p> <p>9 of this as, here is the Reddwerks bucket and here is</p> <p>10 the metrics that Reddwerks is going to use and right</p> <p>11 now we've listed off a threshold and a threshold</p> <p>12 range; is that right?</p> <p>13 A. Yes.</p> <p>14 Q. Any other metrics that would fit within the</p> <p>15 Reddwerks enhancements?</p> <p>16 MS. FUMERTON: Objection; form.</p> <p>17 Q. Let me rephrase that.</p> <p>18 Any other metrics that would be in the</p> <p>19 Reddwerks in total, not just those metrics that were</p> <p>20 added as enhancements, but in total what other</p> <p>21 metrics are being used by Reddwerks at that time?</p> <p>22 MS. FUMERTON: Objection; form.</p> <p>23 A. I really couldn't answer the details. I</p> <p>24 wasn't into that level of the weeds of every metric</p> <p>25 that they were using in the system.</p>	<p style="text-align: right;">Page 169</p> <p>1 A. That I was aware of.</p> <p>2 Q. That you were aware of. A over 20 for a</p> <p>3 particular form of oxycodone, correct?</p> <p>4 A. Yes.</p> <p>5 Q. And a 30 percent over four-week moving</p> <p>6 average, correct?</p> <p>7 A. I think earlier I was unsure of the 30</p> <p>8 percent, that was again during the transition, but I</p> <p>9 saw that in one of the documents.</p> <p>10 Q. Okay. But more importantly for purposes of</p> <p>11 2015, those metrics were no longer being used?</p> <p>12 A. That is the one thing I'm struggling to</p> <p>13 answer. I don't remember exactly when that turned</p> <p>14 off or when that was adjusted. I don't.</p> <p>15 Q. Okay.</p> <p>16 MS. FUMERTON: Is this a good time for</p> <p>17 lunch?</p> <p>18 MR. INNES: Yeah, before we get too much</p> <p>19 further into this I think we can break.</p> <p>20 MS. FUMERTON: Okay.</p> <p>21 THE VIDEOGRAPHER: Going off record. The</p> <p>22 time is 12:02.</p> <p>23 (Recess from 12:02 p.m. until 12:40 p.m.)</p> <p>24 THE VIDEOGRAPHER: We're going back on</p> <p>25 record, beginning of Media File Number 6, the</p>

<p style="text-align: right;">Page 170</p> <p>1 time is 12:40.</p> <p>2 BY MR. INNES:</p> <p>3 Q. Good afternoon, Mr. Ducote. We're now back</p> <p>4 from lunch. Where we left off, we were on Exhibit</p> <p>5 Number 8 and we were discussing the suspicious order</p> <p>6 monitoring process flow that's found on page four of</p> <p>7 the attached PowerPoint.</p> <p>8 So I want to make sure we've covered</p> <p>9 everything that would fall into the first cell here,</p> <p>10 the order of interest identified by the Reddwerks</p> <p>11 system. I think we've identified as the metrics for</p> <p>12 identifying a suspicious order in the Reddwerks</p> <p>13 system as being thresholds and ranges of thresholds.</p> <p>14 Is that correct?</p> <p>15 A. Yes.</p> <p>16 Q. Other than -- well, you testified that Mu</p> <p>17 Sigma did an analysis of data that set or provided</p> <p>18 thresholds and ranges of thresholds. Is that</p> <p>19 correct?</p> <p>20 A. That's my understanding, yes.</p> <p>21 Q. How, if at all, can those -- well, were</p> <p>22 those thresholds and ranges of thresholds accepted</p> <p>23 by Walmart --</p> <p>24 MS. FUMERTON: Objection; form.</p> <p>25 Q. -- as accurate?</p>	<p style="text-align: right;">Page 172</p> <p>1 question?</p> <p>2 Q. I'm trying to understand the difference</p> <p>3 between thresholds and ranges of thresholds.</p> <p>4 A. A range would just be let's say zero to 10,</p> <p>5 okay? A threshold would be one of those numbers in</p> <p>6 that range, five, maybe or six, would be that</p> <p>7 threshold for that particular item store.</p> <p>8 Q. So let's say a bottle of oxycodone, could</p> <p>9 that have a different threshold for pharmacy one</p> <p>10 versus pharmacy two?</p> <p>11 MS. FUMERTON: Objection; form.</p> <p>12 A. Potentially, yes, it could.</p> <p>13 Q. Okay. So Walmart doesn't apply a static</p> <p>14 threshold for all oxycodone across all stores?</p> <p>15 MS. FUMERTON: Objection; form.</p> <p>16 A. The reason it's tough for me to answer that</p> <p>17 question for you is that may have been the option</p> <p>18 that was chosen, but I don't -- I can't say</p> <p>19 specifically. It was based on ranges, thresholds.</p> <p>20 So your question may be yes, but it may be no. I</p> <p>21 really don't know 100 percent.</p> <p>22 Q. Okay. I wanted to be clear. When we're</p> <p>23 discussing the suspicious order monitoring process</p> <p>24 flow, when was this in place, time period?</p> <p>25 A. This was developed -- was began development</p>
<p style="text-align: right;">Page 171</p> <p>1 MS. FUMERTON: Objection; form.</p> <p>2 A. Again, this was during that late 2014</p> <p>3 period. I would answer yes because that's what we</p> <p>4 were going to use for this tiered process.</p> <p>5 Q. Are the thresholds able to be adjusted</p> <p>6 within Reddwerks manually?</p> <p>7 MS. FUMERTON: Objection; form.</p> <p>8 A. Yes.</p> <p>9 Q. And are the ranges of thresholds also able</p> <p>10 to be adjusted manually?</p> <p>11 MS. FUMERTON: Objection; form.</p> <p>12 A. That is a little unclear about the ranges.</p> <p>13 The ranges are of the different store item combo.</p> <p>14 So there may be different thresholds, there is a</p> <p>15 range of thresholds, so a threshold may be adjusted</p> <p>16 but the range existed.</p> <p>17 Q. I'm not sure I follow that. So are ranges</p> <p>18 of thresholds, we're only talking about combinations</p> <p>19 in that context, is that right?</p> <p>20 MS. FUMERTON: Objection; form.</p> <p>21 A. Could you repeat that again, please?</p> <p>22 Q. Do range thresholds apply to a single drug?</p> <p>23 MS. FUMERTON: Objection; form.</p> <p>24 A. I don't recall exactly. So your question is</p> <p>25 when drugs have different ranges, is that your</p>	<p style="text-align: right;">Page 173</p> <p>1 before I began the role, as we discussed earlier.</p> <p>2 It was piloted sometime around that beginning of</p> <p>3 2015, maybe as late as 2014, late 2014, I think it</p> <p>4 was 2015, and then it was in place fully, from what</p> <p>5 I recall, around that summer of 2015, maybe late</p> <p>6 summer. It was in that range of time period.</p> <p>7 Q. And this would apply to -- well, strike</p> <p>8 that.</p> <p>9 When was it piloted to 6045?</p> <p>10 MS. FUMERTON: Objection; form.</p> <p>11 A. I don't remember the exact date.</p> <p>12 Q. When was it fully rolled out to 6045?</p> <p>13 A. I do not recall if it was before or after</p> <p>14 the vault relocation.</p> <p>15 Q. When was the vault relocation?</p> <p>16 A. It was around the summer of 2015.</p> <p>17 Q. And that was the -- the vault relocation</p> <p>18 from the oxy -- the rescheduling of -- I'm sorry,</p> <p>19 the rescheduling of hydrocodone?</p> <p>20 MS. FUMERTON: Objection to form.</p> <p>21 A. That was one of the reasons but there was</p> <p>22 other reasons also.</p> <p>23 Q. But that was the time frame?</p> <p>24 A. Yeah.</p> <p>25 Q. So you can't say, sitting here today, for</p>

<p style="text-align: right;">Page 174</p> <p>1 sure, when this suspicious order monitoring process 2 flow was in place? 3 MS. FUMERTON: Objection; form. 4 A. I can't say specifically but I can again say 5 the range of time that was. 6 Q. Mr. Ducote, in your role, one of your 7 responsibilities was the execution of the suspicious 8 order monitoring program, was it not? 9 A. Yes. 10 Q. But sitting here today, you can't tell us 11 what suspicious order monitoring process you were 12 executing in a particular point in time? 13 MS. FUMERTON: Objection; form. 14 A. I think I can tell you a range of time, but 15 your questions have been specific times. I think 16 that's very difficult after a three-year time 17 period. 18 Q. I would like to know what suspicious order 19 monitoring process flow was in place in 2015. 20 MS. FUMERTON: Objection; form. 21 A. At the conclusion of 2015, this process was 22 in place. 23 Q. Okay. Was this process in place the day you 24 left your position? 25 A. Let me just double-check it to make sure.</p>	<p style="text-align: right;">Page 176</p> <p>1 A. The exact date, I don't know exactly the 2 time period. It was probably in those first few 3 months, a lot of the adjustments we made were in 4 that -- as you pilot it, you roll it out, the 5 continuous improvement cycle was during that time 6 period. 7 Q. Right. The piloting phase was -- they were 8 beta testing that, you were rolling out and figuring 9 out what the flaws are and optimizing those flaws? 10 MS FUMERTON: Objection; form. 11 A. Somewhat one in the same. You do -- a 12 common technique of anything is that you test it 13 before you roll it out, so the actual -- your 14 reference to a beta test would have been done in 15 more of a sterile environment by Reddwerks, some 16 people call it sandbox, you can call it different 17 terms, but once it rolls into the pilot location it 18 doesn't mean there aren't improvements you still 19 make, but it should be pretty close to the final 20 product. 21 Q. In 2015, when did the pilot program start 22 for 6045? 23 A. I do not recall the exact date of it. 24 Q. Sometime between end of 2014 and when it 25 became final in 2015?</p>
<p style="text-align: right;">Page 175</p> <p>1 Yes. 2 Q. So from 2015 until the last day of your 3 tenure in that role, this was the process flow that 4 was in place? 5 MS. FUMERTON: Objection; form. 6 A. Yes. 7 Q. Now, earlier you testified about, generally 8 speaking, optimization and continued improvement. 9 Was it a static process flow from when it was fully 10 implemented in 2015 until the last day of your 11 tenure, or did it change? 12 MS. FUMERTON: Objection; form. 13 A. That question was very broad. Could you 14 restate it or narrow it down? 15 Q. What changes, if any, were made to this 16 progress flow from the first day it was fully 17 implemented in 2015 until the last day of your 18 tenure? 19 A. Okay. Understood now the question. I'll 20 give you an example of one. One change was where 21 some of the information from the order evaluation 22 was captured. We utilized a system called Archer. 23 So it was improvement over more of a manual paper 24 based process. So something as simple as that. 25 Q. When was that change made?</p>	<p style="text-align: right;">Page 177</p> <p>1 A. It seems that there was something at the end 2 of 2014 discussed about it, I just don't recall when 3 it was or what it was. Seemingly the pilots were 4 done at the beginning of 2015. 5 Q. Okay. So other than -- in order -- an order 6 of interest is identified in the Reddwerks system in 7 Cell 1 when it flags a certain threshold. Is that a 8 fair statement? 9 A. Yes. 10 Q. And that threshold could be different 11 depending on the store; is that correct? 12 A. Potentially, yes. 13 Q. What happens to those orders that are 14 identified as orders of interest by the Reddwerks 15 system at that point? 16 A. At that point, it's where you are in the 17 second box at the first level order evaluation. 18 Q. Okay. And the first level order evaluation, 19 that occurs at the distribution center? 20 A. Yes. 21 Q. And that's the 6045 distribution center? 22 A. In this -- this time period, this context, 23 it potentially would have been in all distribution 24 centers, because each going back to the statement I 25 made earlier, this was for controlled substances</p>

<p style="text-align: right;">Page 178</p> <p>1 plus other drugs of interest.</p> <p>2 Q. Right. I think -- I think we can sort of</p> <p>3 make our day easier. I am going to narrow these</p> <p>4 questions are directed to Schedule II and III</p> <p>5 opioids.</p> <p>6 MS. FUMERTON: Okay. I just object. We can</p> <p>7 do that but some of the questions then are broad,</p> <p>8 so I think we still might need clarifications to</p> <p>9 do that.</p> <p>10 Q. If you need clarification, you can ask, but</p> <p>11 for purposes of the suspicious order monitoring</p> <p>12 process flow, and the context of this case that</p> <p>13 deals with opioids and distribution of opioids, I</p> <p>14 think it's easier to speak -- to not have to preface</p> <p>15 each one of our questions with that.</p> <p>16 So you can assume my questions are dealing</p> <p>17 with Schedule II narcotics in the context of this</p> <p>18 process flow.</p> <p>19 A. Okay.</p> <p>20 Q. If you have -- but if you -- that does not</p> <p>21 override my initial instruction, don't understand my</p> <p>22 questions just ask.</p> <p>23 MS. FUMERTON: My only statement in that</p> <p>24 regard is that because the order monitoring --</p> <p>25 I'm not testifying but to the extent that there</p>	<p style="text-align: right;">Page 180</p> <p>1 review.</p> <p>2 Q. Okay. So let's break that down. Who are</p> <p>3 the managers at the DC? The DC you're referring to</p> <p>4 is 6045; is that correct?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Who are the managers at DC6045 that</p> <p>7 would evaluate those orders that were held in the</p> <p>8 repository?</p> <p>9 MS. FUMERTON: Objection; form.</p> <p>10 A. It could have been any of the salaried</p> <p>11 managers that were on staff at that time. These</p> <p>12 orders were reviewed early in the morning because of</p> <p>13 how the cycle times of the orders were placed.</p> <p>14 Q. So it was a salaried employee that reviewed?</p> <p>15 A. Yes.</p> <p>16 Q. It wasn't an hourly employee that reviewed?</p> <p>17 A. Not to do the evaluation, no.</p> <p>18 Q. What was the criteria that could -- what was</p> <p>19 the criteria they used to evaluate those orders that</p> <p>20 were held in the repository?</p> <p>21 A. There were -- there was a sheet or there</p> <p>22 were guidelines that they were given. It escapes me</p> <p>23 every specific example of it, but one could have</p> <p>24 been -- it's called a buyer push, that we knew we're</p> <p>25 switching to a new item, potentially, so I will use</p>
<p style="text-align: right;">Page 179</p> <p>1 were other drugs or other medicines that were</p> <p>2 involved in the process, then it might not be as</p> <p>3 simple as just making an assumption every time</p> <p>4 you use that word.</p> <p>5 MR. INNES: Are you talking about</p> <p>6 combination drugs?</p> <p>7 MS. FUMERTON: No, I'm just talking more</p> <p>8 generally, but we can understand that, you know,</p> <p>9 in general, when you are talking about this, but</p> <p>10 I still would expect that to have a clear record</p> <p>11 that we be careful about the language we're</p> <p>12 using.</p> <p>13 Q. So the first level order evaluation</p> <p>14 distribution centers, what's happening there as it</p> <p>15 pertains to Schedule II, Schedule III opioids?</p> <p>16 A. So what would happen at that point is orders</p> <p>17 would come in. If an order was above a threshold,</p> <p>18 it would not download that order into the order</p> <p>19 filling system. It would go into a holding</p> <p>20 repository, if you want to use that term for</p> <p>21 simplicity.</p> <p>22 Those orders would then be reviewed by one</p> <p>23 of the managers at the DC and they had criteria that</p> <p>24 they could then release the order to order filling,</p> <p>25 or the order had to be sent to the second level</p>	<p style="text-align: right;">Page 181</p> <p>1 that as an example.</p> <p>2 So we, let's say we use supplier A and then</p> <p>3 there is supplier B. We would let the inventory of</p> <p>4 supplier A run down in the pharmacies and then ship</p> <p>5 supplier B. Sending supplier B to replenish what</p> <p>6 they normally had gotten from supplier A pushes it</p> <p>7 over a threshold. So in essence it shows, hey, this</p> <p>8 is an order of interest, but we know the reason for</p> <p>9 it. It was intentional to be able to get the</p> <p>10 product into the pharmacy.</p> <p>11 Q. When you refer to supplier, what are you</p> <p>12 referring to?</p> <p>13 A. Just a generic any type of supplier of the</p> <p>14 product. Supplier of the pharmaceutical product.</p> <p>15 Q. Would that be a manufacturer?</p> <p>16 A. Yes.</p> <p>17 Q. Could it be a distributor?</p> <p>18 A. Again, I do want to make my answers as</p> <p>19 concise as possible for you, because these could go</p> <p>20 on for extended time periods, but you potentially</p> <p>21 could purchase -- the way the pharmaceutical supply</p> <p>22 chain works doesn't always mean you're purchasing</p> <p>23 directly from a manufacturer.</p> <p>24 Q. You're not the -- you raise a good point.</p> <p>25 We are talking about Schedule II opioids here,</p>

<p style="text-align: right;">Page 182</p> <p>1 correct?</p> <p>2 A. Okay. That's a fair point, because going</p> <p>3 back to the earlier, it gets convoluted as we talk</p> <p>4 through it.</p> <p>5 Q. Okay. So can you discuss a buyer push in</p> <p>6 the context of opioids exclusively?</p> <p>7 A. See, I went off. That's again why this is a</p> <p>8 confusing topic with the questions, so --</p> <p>9 No, I can't recall if there ever was a buyer</p> <p>10 push for opioid, for a Schedule II opioid.</p> <p>11 Q. If there were, how would that work?</p> <p>12 A. That's a good question. I'm not as familiar</p> <p>13 with the CSOS system regarding those times of</p> <p>14 orders. I'm more familiar with the other systems</p> <p>15 that were used, in pharm, and things, I understand</p> <p>16 the basics of CSOS, but on that particular one, I'm</p> <p>17 not as familiar.</p> <p>18 My general assumption is it would work</p> <p>19 similar. I just couldn't answer specifically.</p> <p>20 Q. While we're here, can Walmart pharmacy</p> <p>21 purchase directly from the manufacturer, a Schedule</p> <p>22 II opioid from a manufacturer?</p> <p>23 MS. FUMERTON: Objection; form.</p> <p>24 A. No, not my understanding directly from the</p> <p>25 manufacturer.</p>	<p style="text-align: right;">Page 184</p> <p>1 of a particular drug, opioid?</p> <p>2 MS. FUMERTON: Objection; form.</p> <p>3 A. I know you asked me this question earlier.</p> <p>4 With this new process, I don't remember when that</p> <p>5 was changed or modified. I don't recall exactly.</p> <p>6 Q. Right. My original question, and you're</p> <p>7 right, we've talked about this, is whether or not</p> <p>8 those metrics were embedded in Reddwerks, right?</p> <p>9 A. Right.</p> <p>10 Q. And now I'm wondering if maybe those metrics</p> <p>11 were pushed down the process flow to another area.</p> <p>12 A. Go ahead.</p> <p>13 Q. And so -- but you're -- sitting here today</p> <p>14 you can't -- you're unsure as to whether or not over</p> <p>15 50 was a metric use by the first level evaluation</p> <p>16 team at the distribution center?</p> <p>17 MS. FUMERTON: Objection; form.</p> <p>18 A. My belief is it was not. I just can't tell</p> <p>19 you specifically.</p> <p>20 Q. How about oxycodone over 20?</p> <p>21 MS. FUMERTON: Objection; form.</p> <p>22 A. It would be difficult for me to answer that</p> <p>23 question, it may have been the threshold that was</p> <p>24 set, so the answer may be yes but it's not yes for</p> <p>25 my previous context. It's yes just because that was</p>
<p style="text-align: right;">Page 183</p> <p>1 Q. So we've identified -- I just want to sort</p> <p>2 of reset. We do this periodically along this path.</p> <p>3 A. Okay.</p> <p>4 Q. The order of interest identified by</p> <p>5 Reddwerks system, it's flagged as -- or it's</p> <p>6 segregated into that and held in that repository</p> <p>7 because it's above a threshold, right?</p> <p>8 A. Yes.</p> <p>9 Q. So for what purpose would you require --</p> <p>10 does Walmart require another level of review of that</p> <p>11 flagged order?</p> <p>12 A. Going back to the comment that I made</p> <p>13 earlier, there is a list of items. It's escaping me</p> <p>14 right now to be able to tell you what those are. If</p> <p>15 they weren't included -- am I saying that correctly.</p> <p>16 If what they were allowed to approve was</p> <p>17 not -- make sure I state this right.</p> <p>18 On the list, if that wasn't one of the</p> <p>19 categories, it would push it to the next level.</p> <p>20 They had no option. It wasn't a decision, it was</p> <p>21 yea or nay, it was as simple as that.</p> <p>22 Q. Buyer push would be one?</p> <p>23 A. Well, going back to the Schedule II, I don't</p> <p>24 recall exactly.</p> <p>25 Q. Okay. How about an over 50, over 50 bottles</p>	<p style="text-align: right;">Page 185</p> <p>1 the threshold that was set for it.</p> <p>2 Q. That threshold, and perhaps the 50 bottle</p> <p>3 threshold could have been set in -- I thought your</p> <p>4 testimony earlier was -- I'm sorry.</p> <p>5 How about a greater than 30 percent of the</p> <p>6 four-week moving average, would that be something</p> <p>7 that would be at the first level order evaluation?</p> <p>8 MS. FUMERTON: Objection; form.</p> <p>9 A. We discussed it earlier, but I was</p> <p>10 struggling with that one. I will agree because I</p> <p>11 couldn't remember the timing of it. My assumption</p> <p>12 is that it would not have been part of this new</p> <p>13 process. That would have been something we stopped.</p> <p>14 I just don't -- I can't tell you exactly when it</p> <p>15 was.</p> <p>16 Q. Are there any other factors sitting here</p> <p>17 today that you can recall that were considered at</p> <p>18 this first level order evaluation?</p> <p>19 A. Not that I can recall. There are other</p> <p>20 factors. I just can't recall them.</p> <p>21 Q. And if an order was determined to not fit</p> <p>22 one of those criteria?</p> <p>23 A. It would be -- then be sent to a logistics</p> <p>24 team member.</p> <p>25 Q. And that's the third cell?</p>

<p style="text-align: right;">Page 186</p> <p>1 A. Yes.</p> <p>2 Q. Before we get to the third cell, I want to</p> <p>3 know, ask you, what happens if it did meet one of</p> <p>4 those criteria?</p> <p>5 A. If it met one, and this is -- this is very</p> <p>6 difficult because I think at times I'm answering the</p> <p>7 question opposite of what you're asking me the</p> <p>8 question. But if one -- one of these criteria, they</p> <p>9 could approve the order, they could ship it. If it</p> <p>10 didn't meet one of those, then it would</p> <p>11 automatically get sent to the next level.</p> <p>12 Q. Okay. If it doesn't meet a factor, it</p> <p>13 ships?</p> <p>14 A. Yes.</p> <p>15 Q. Meets a factor, we go down the chain?</p> <p>16 MS. FUMERTON: Objection; form.</p> <p>17 A. Restate the question.</p> <p>18 Q. If it's -- if it meets one of these</p> <p>19 criteria, that you can't recall right now, it is --</p> <p>20 they can approve the order and ship it?</p> <p>21 A. Yes.</p> <p>22 Q. If it doesn't meet one of the criteria that</p> <p>23 you can't recall, it gets escalated to the second</p> <p>24 level?</p> <p>25 A. There seems -- it seems like we're saying</p>	<p style="text-align: right;">Page 188</p> <p>1 way I understand it to work, is that it would go</p> <p>2 through this evaluation process first, then if it</p> <p>3 was one of the criteria, they could ship, it would</p> <p>4 go to CSOS and at CSOS it was signed as an order and</p> <p>5 then sent to order filling.</p> <p>6 Q. Do you know how those criteria that</p> <p>7 permitted a ship of a -- permitted a shipment of an</p> <p>8 order that was flagged -- a threshold order that was</p> <p>9 flagged, how those were created?</p> <p>10 MS. FUMERTON: Objection; form.</p> <p>11 A. I have a general understanding of how they</p> <p>12 were. They were created, it's a cross functional</p> <p>13 team at the office.</p> <p>14 Q. Cross functional team means what?</p> <p>15 A. It's a team that involved legal and others</p> <p>16 to determine those criteria.</p> <p>17 Q. Okay. So Walmart legal counsel and</p> <p>18 Walmart -- and others at Walmart?</p> <p>19 A. Yes.</p> <p>20 Q. Others from your department?</p> <p>21 A. No. Well, that's -- that's -- we were</p> <p>22 there, but did we have a say in the criteria? No.</p> <p>23 It was basically legal and compliance.</p> <p>24 Q. Okay. So logistics had a seat at the table</p> <p>25 for the discussion?</p>
<p style="text-align: right;">Page 187</p> <p>1 the opposite. So here's criteria that -- let's say</p> <p>2 1, 2, and 3. If you get an order as a manager, it's</p> <p>3 one of these three things that cause the order to be</p> <p>4 above the threshold, it's understood that you have</p> <p>5 approval to ship it. Because it's agreement that</p> <p>6 that's -- that's a specific reason that everyone</p> <p>7 understands.</p> <p>8 If it doesn't meet one of those criteria,</p> <p>9 then you can't do anything but forward it on to the</p> <p>10 next level. You have no -- you're not allowed any</p> <p>11 judgment per se in that. You have to send it on.</p> <p>12 Is that what you were stating to me?</p> <p>13 Q. Yes. Thank you for clarifying the record.</p> <p>14 Of those orders that are approved for</p> <p>15 shipping, do they go right out the door, or is there</p> <p>16 another review on top of that that I don't see on</p> <p>17 this chart?</p> <p>18 A. That goes back to the point earlier. I'm</p> <p>19 not as familiar with the CSOS of how it interacted</p> <p>20 with this, I was mentioning. I understand CSOS, and</p> <p>21 I understand this program, but actual, the</p> <p>22 interaction, because the orders still have to be</p> <p>23 approved through CSOS.</p> <p>24 Q. By CSOS you mean?</p> <p>25 A. Controlled Substance Ordering System. The</p>	<p style="text-align: right;">Page 189</p> <p>1 A. We had a seat of the table. I would debate</p> <p>2 if it was for the discussion. We were there as part</p> <p>3 of it.</p> <p>4 Q. Okay. Did you, during those discussions,</p> <p>5 did you or any of your team members offer input as</p> <p>6 to how those criteria were developed?</p> <p>7 MS. FUMERTON: And so, again, I just caution</p> <p>8 the witness. He mentioned that legal was sitting</p> <p>9 at the table. I think there were communications</p> <p>10 that were with legal. That's privileged and I</p> <p>11 will instruct him to not answer. To the extent</p> <p>12 the questions were not -- the answer was not with</p> <p>13 legal, then you can go ahead and answer.</p> <p>14 Q. I want to be sure I understand your</p> <p>15 instruction. If legal posed a question to</p> <p>16 Mr. Ducote and anyone else in the room and they</p> <p>17 responded, you're saying that would be privileged.</p> <p>18 But if Mr. Ducote, of his own volition, offered</p> <p>19 information, that would not be privileged?</p> <p>20 MS. FUMERTON: I don't know what he's about</p> <p>21 to testify, some sort of talk in a hypothetical.</p> <p>22 So just sort of as general guidance, if the</p> <p>23 discussion or -- with either the attorneys giving</p> <p>24 legal advice or the folks seeking legal advice</p> <p>25 from the attorneys, all of that is considered</p>

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<p>1 privileged, but outside of that context, then I</p> <p>2 think you can respond to the question.</p> <p>3 A. Going back to our seat at the table that you</p> <p>4 referred to, it was if -- to explain how things</p> <p>5 would work based on decisions that they would make.</p> <p>6 So if they said here's what the decision -- how does</p> <p>7 it actually work, is what my seat on the table would</p> <p>8 be for the operational aspects of it.</p> <p>9 Q. Okay. Did you ever suggest that there would</p> <p>10 be another level of review after an order was</p> <p>11 cleared by the first level?</p> <p>12 MS. FUMERTON: Same instruction.</p> <p>13 Q. I can give you a hypothetical, if that</p> <p>14 helps. Order comes through, it's flagged by</p> <p>15 Reddwerks as a threshold, makes it to the first</p> <p>16 level order evaluation, it fits one of these</p> <p>17 criteria that you can't recall at the moment, but</p> <p>18 allows for a shipment. Did you ever or did anyone</p> <p>19 from your team ever suggest -- did you suggest that</p> <p>20 those orders should be subject to another review?</p> <p>21 A. Not that I recall.</p> <p>22 Q. Okay. Did anyone on your team suggest it</p> <p>23 should be subject to another review?</p> <p>24 MS. FUMERTON: Objection; form.</p> <p>25 A. No, I don't recall if anyone did.</p>	<p>1 A. Data -- I feel that encompasses pretty much</p> <p>2 everything.</p> <p>3 Q. Okay. No gotcha. I'm just trying to figure</p> <p>4 out what you looked at.</p> <p>5 What data specifically did the team look at?</p> <p>6 A. Okay.</p> <p>7 MS. FUMERTON: Objection; form.</p> <p>8 A. Sorry. I could not tell you every single</p> <p>9 data point. Some that just come to mind when you</p> <p>10 asked the question, the -- their previous four weeks</p> <p>11 average, so how -- what was their average order</p> <p>12 history, we could -- we would look at control to</p> <p>13 noncontrol percentage of their orders, and there</p> <p>14 were some other factors. There's a laundry list of</p> <p>15 different data points that we would look at.</p> <p>16 Q. That laundry list, a dozen, would you say?</p> <p>17 A. If I had to estimate, a dozen or two dozen,</p> <p>18 kind of that range.</p> <p>19 Q. And how would those be -- how would the</p> <p>20 members of the POM team go about accessing that</p> <p>21 data?</p> <p>22 A. That's another five-hour conversation. Just</p> <p>23 because of all the names of systems that we have,</p> <p>24 but basically, in a nutshell, they would use</p> <p>25 different Walmart systems that were in existence.</p>
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<p>1 Q. So now we've -- let's take it to the order</p> <p>2 that did not meet one of the criteria that you can't</p> <p>3 remember. We're at the second level order</p> <p>4 evaluation logistics, is that the next stop on the</p> <p>5 process flow?</p> <p>6 A. That is correct.</p> <p>7 Q. That's your team's wheelhouse, correct?</p> <p>8 A. Yes.</p> <p>9 Q. What happened there?</p> <p>10 A. There, we had a process where one of the</p> <p>11 pharmacy order monitoring, some refer to them as</p> <p>12 POMs, there were different abbreviations that were</p> <p>13 used, they had a set of criteria that they would use</p> <p>14 to review the order, they would look at different</p> <p>15 data points, they would look at various reports and</p> <p>16 then they would also, at times, depending on what</p> <p>17 those data reports or those criteria determine, make</p> <p>18 phone calls to pharmacies to discuss, and then they</p> <p>19 would make a determination based on all those</p> <p>20 factors should the order be shipped or should it be</p> <p>21 sent on to another level of review.</p> <p>22 Q. Okay. You said they looked at criteria to</p> <p>23 determine -- to make their determination. And then</p> <p>24 you listed data, reports, phone calls. Anything</p> <p>25 else?</p>	<p>1 One, for example, is Host. Host is a system that</p> <p>2 looks at -- that gives us access to order entries</p> <p>3 and order flows. So there were typically, short</p> <p>4 answer, they were Walmart systems that we looked</p> <p>5 into, for the most part.</p> <p>6 Q. Okay. So other than four-week average, and</p> <p>7 control versus ratio of control to noncontrol, what</p> <p>8 other data points did they look at?</p> <p>9 A. I can't recall every single one. One that</p> <p>10 came to mind also, looking at as simple as who</p> <p>11 created the order. Was the order a system order,</p> <p>12 was it a manual order.</p> <p>13 Q. How would that impact -- I'm sorry.</p> <p>14 A. No, I was just going to say, or going back</p> <p>15 to the buyer push, which again, I know we're</p> <p>16 referring to the Schedule II piece, so that may not</p> <p>17 have been a factor in that one.</p> <p>18 What was your question?</p> <p>19 Q. If it was manual versus a computer order,</p> <p>20 how does that factor into the analysis?</p> <p>21 MS. FUMERTON: Objection; form.</p> <p>22 A. As a team on a regular basis with the</p> <p>23 compliance division, there would be meetings to talk</p> <p>24 about different factors to consider. So one, going</p> <p>25 to that factor, manual versus system. So if an</p>

<p style="text-align: right;">Page 194</p> <p>1 order was over the threshold and it was a 2 system-generated order, one of the things we would 3 want to do is check to see if there was an error 4 with the system. Their systems aren't always 100 5 percent perfect. There could just be a simple 6 variation that occurred, so we would look at -- I 7 don't know if I'm answering your question. I think 8 that's your question, but we would just look at 9 details such as that.</p> <p>10 Q. Okay. And if it was a manual entry, would 11 there be a follow-up with the person who entered 12 that entry?</p> <p>13 A. We would make efforts to do so, but it could 14 be where Chad made the manual order but he's not 15 working today, it's Sarah that's working, so we 16 would make an effort, if we couldn't talk to Chad, 17 we would talk to Sarah but find out why the manual 18 order was made that pushed it over the threshold.</p> <p>19 Q. Was there a -- was there a record of that 20 conversation?</p> <p>21 A. Yes, there should be.</p> <p>22 Q. Where would -- where were those stored?</p> <p>23 A. Those, going back to the process improvement 24 we discussed earlier, at first those were stored 25 just simply paper logs or spreadsheets, but we moved</p>	<p style="text-align: right;">Page 196</p> <p>1 was but as time went on those were electronically 2 kept completely.</p> <p>3 Q. Okay and I will try to frame my question so 4 we can get the timeline down.</p> <p>5 A. Okay.</p> <p>6 Q. In the beginning there was a conversation 7 that would happen, notes would be taken by a POM 8 team member, handwritten notes?</p> <p>9 A. Yes.</p> <p>10 Q. And those would be transcribed into an 11 electronic form?</p> <p>12 A. Yes, they were supposed to.</p> <p>13 Q. Okay. And who would do the transcription?</p> <p>14 A. The POM.</p> <p>15 Q. The same team member who took the 16 handwritten notes would then transcribe their own 17 notes into an electronic form?</p> <p>18 A. Yes.</p> <p>19 Q. And what electronic form specifically would 20 that be?</p> <p>21 A. Archer is the one that I was referring to. 22 There may have been a time period where we were 23 using Excel. As I mentioned earlier, but Archer was 24 eventually what it was. Archer is a database 25 system.</p>
<p style="text-align: right;">Page 195</p> <p>1 into Archer, a system to record that information. 2 THE VIDEOGRAPHER: Going off record. The 3 time is 1:14. 4 (Recess from 1:14 p.m. until 1:25 p.m.) 5 THE VIDEOGRAPHER: We're going back on 6 record, beginning of Media File 7. The time is 7 1:25. 8 BY MR. INNES: 9 Q. Okay. Mr. Ducote, we're back after a 10 hiccup, I have a follow-up question to your last 11 answer. We were discussing if there was a record of 12 conversations that happened between the second level 13 order logistics team and pharmacies regarding 14 manually placed orders. 15 Would there be a -- and I think your 16 response was there would be a record of those 17 conversations; is that right?</p> <p>18 A. Yes, there should be.</p> <p>19 Q. And at one point in time they are maintained 20 as paper logs; is that right?</p> <p>21 A. They were written out as a conversation 22 occurred, and then they were transposed into 23 spreadsheets, so there would be a paper log, but not 24 necessarily in the future there wasn't. So I just 25 want to draw a distinction, at the beginning there</p>	<p style="text-align: right;">Page 197</p> <p>1 Q. Okay. So the handwritten notes would be 2 transcribed by the POM member into Archer, which is 3 a database, and those notes would be maintained in 4 that database?</p> <p>5 A. Yes.</p> <p>6 Q. Is that database searchable?</p> <p>7 MS. FUMERTON: Objection; form.</p> <p>8 A. I do not know the answer to that question.</p> <p>9 Q. For instance, if a POM member wanted to look 10 back at their notes for a particular pharmacy, did 11 they have the ability to do that?</p> <p>12 A. Yes.</p> <p>13 Q. How would they do that?</p> <p>14 A. That is the part I didn't know earlier. I 15 don't -- I don't know exactly how they did it.</p> <p>16 Q. Okay.</p> <p>17 A. I do know they could go and look at the 18 store's order history.</p> <p>19 Q. So we'll go back in time to when they 20 transcribed them into Excel, I think you said?</p> <p>21 A. There was a time period -- I just don't know 22 how long that was. It may have just been -- could 23 have been a week, could have been two weeks. There 24 was a wait to get Archer access, so we had them 25 enter them some place. I don't recall exactly how</p>

<p style="text-align: right;">Page 198</p> <p>1 long that was.</p> <p>2 Q. Okay. Were those files maintained?</p> <p>3 MS. FUMERTON: Objection; form.</p> <p>4 A. Yes, to my understanding, those files are</p> <p>5 maintained.</p> <p>6 Q. And they are still available?</p> <p>7 MS. FUMERTON: Objection; form.</p> <p>8 A. They were available when I left the role.</p> <p>9 Q. Okay. And what date did you leave the role</p> <p>10 again?</p> <p>11 A. June 2017.</p> <p>12 Q. Were those Excel notes ever transcribed a</p> <p>13 second time into Archer?</p> <p>14 A. That's the part I'm unclear on.</p> <p>15 Q. You also mentioned -- I'll just recap</p> <p>16 here -- the POMs looked at data, they looked at</p> <p>17 reports, they looked at phone calls, right, those</p> <p>18 are the three things?</p> <p>19 A. Yes, and whenever, I guess, to clarify,</p> <p>20 whenever we talk about data, I'm just talking about</p> <p>21 information in general. It's not necessarily a</p> <p>22 database, it's just information.</p> <p>23 Q. Okay. So thank you for that clarification.</p> <p>24 So they could -- POM team members would have access</p> <p>25 to information that would help them make their</p>	<p style="text-align: right;">Page 200</p> <p>1 that they use this list and -- well, that's my</p> <p>2 question. This was a suggested list of items that</p> <p>3 they should use when investigating the threshold</p> <p>4 order?</p> <p>5 A. Yes.</p> <p>6 Q. Were they required to -- were POM team</p> <p>7 members required to keep a catalog of the factors</p> <p>8 that they looked at for each investigation?</p> <p>9 MS. FUMERTON: Objection; form.</p> <p>10 A. When you state catalog, is the answer or the</p> <p>11 question you asked earlier one in the same?</p> <p>12 Q. Let me ask -- let me see if I can't clarify</p> <p>13 my question. It was kind of cumbersome.</p> <p>14 Is there a record -- does Walmart maintain a</p> <p>15 record of each investigation by the POM team member?</p> <p>16 MS. FUMERTON: Objection; form.</p> <p>17 A. When I was in the role, as referenced</p> <p>18 earlier, Archer was that database.</p> <p>19 Q. And in Archer, could a POM team member</p> <p>20 indicate the various data points that they looked at</p> <p>21 or considered when making the evaluation?</p> <p>22 A. Yes.</p> <p>23 Q. You also mentioned reports that POM team</p> <p>24 members would consider. What reports are you</p> <p>25 referring to?</p>
<p style="text-align: right;">Page 199</p> <p>1 determination?</p> <p>2 A. Yes.</p> <p>3 Q. And some of that information was a four-week</p> <p>4 moving average, control versus noncontrol. What</p> <p>5 other programs could they -- were there other</p> <p>6 centrally located files that they would look at?</p> <p>7 MS. FUMERTON: Objection; form.</p> <p>8 A. There may have been a list of everything</p> <p>9 they looked at. I don't recall -- I don't recall if</p> <p>10 there was or not. There -- I know there was a</p> <p>11 checklist that we used. I just don't recall what</p> <p>12 was on that checklist.</p> <p>13 Q. How would that checklist be used by a POM</p> <p>14 team member in their investigation of the order?</p> <p>15 A. That checklist would have been as a guidance</p> <p>16 to -- as more of a -- just a general script as</p> <p>17 you're doing your job, here are some key points to</p> <p>18 look at or to consider or to ask about.</p> <p>19 Q. Were there mandatory items that they had to</p> <p>20 look at?</p> <p>21 MS. FUMERTON: Objection; form.</p> <p>22 A. I don't recall we ever stated directly, hey,</p> <p>23 these are mandatory, but they were expected to use</p> <p>24 whatever was provided to them in the research.</p> <p>25 Q. Is it fair to say that a suggestion was made</p>	<p style="text-align: right;">Page 201</p> <p>1 A. I think that was the question earlier. I</p> <p>2 wasn't -- every single report or information they</p> <p>3 looked at, I don't recall exactly every one, but one</p> <p>4 report I had mentioned somewhat earlier -- I say</p> <p>5 report, use it loosely, is a control versus</p> <p>6 noncontrol. It's a report of the information.</p> <p>7 Q. I just want to make sure we're not talking</p> <p>8 past each other. I was talking about three</p> <p>9 categories that the POM team member would look at,</p> <p>10 data, reports and phone calls. Am I confusing that,</p> <p>11 are data and reports interchangeable in your mind?</p> <p>12 A. Yes. Yeah.</p> <p>13 Q. So data/reports and personal phone calls to</p> <p>14 the pharmacist or pharmacy?</p> <p>15 A. Yes.</p> <p>16 Q. And would you talk to -- would the POM team</p> <p>17 member talk to someone specific at the pharmacist --</p> <p>18 or the pharmacy?</p> <p>19 MS. FUMERTON: Objection; form.</p> <p>20 Q. Were they asking for a particular person</p> <p>21 when they called?</p> <p>22 MS. FUMERTON: Objection; form.</p> <p>23 A. Going back to the discussion earlier, if we</p> <p>24 knew that Chad placed an order and we could talk to</p> <p>25 Chad, we did, if not, we talked to another staff</p>

<p style="text-align: right;">Page 202</p> <p>1 member.</p> <p>2 Q. Okay. So, again, I'm going to do sort of a</p> <p>3 reset now.</p> <p>4 A. Okay.</p> <p>5 Q. We've gone through the orders, gone through</p> <p>6 the orders of interest, I'm going to cabin my</p> <p>7 question to the items that get through the flow,</p> <p>8 right?</p> <p>9 So we've got orders of interest flagged by</p> <p>10 the Reddwerks system, it hasn't met a clearing</p> <p>11 factor, it's past the second level review. Those</p> <p>12 second level reviews are documented in Archer,</p> <p>13 right? So does Archer have a record of every</p> <p>14 suspicious order?</p> <p>15 MS. FUMERTON: Objection; form.</p> <p>16 A. I don't -- I couldn't tell you if it has a</p> <p>17 record of every single suspicious order.</p> <p>18 Q. When do you consider an order to be</p> <p>19 suspicious?</p> <p>20 MS. FUMERTON: Objection; form.</p> <p>21 A. Were you going to ask a follow-up on that?</p> <p>22 You kind of paused there, so I want to make sure.</p> <p>23 Q. No, I can -- when do you consider an order</p> <p>24 to be suspicious?</p> <p>25 MS. FUMERTON: Objection; form. Go ahead.</p>	<p style="text-align: right;">Page 204</p> <p>1 period that it takes to clear an order?</p> <p>2 A. There was a procedure about time periods.</p> <p>3 If -- I don't recall the exact dates, days on it,</p> <p>4 but if you had a copy of it, I could walk you</p> <p>5 through it.</p> <p>6 Q. So it's your testimony that the evaluation</p> <p>7 should be completed in a specific number of days?</p> <p>8 MS. FUMERTON: Objection; form.</p> <p>9 Q. In less than a specific number of days?</p> <p>10 A. It should be completed in the time period</p> <p>11 that we had outlined in the process.</p> <p>12 Q. And if it's not completed in that time</p> <p>13 period, what happens then?</p> <p>14 A. I don't recall having -- when the program</p> <p>15 first rolled out, there may have been a time or two,</p> <p>16 where -- with the transition, they didn't make the</p> <p>17 time period. I do not recall what happened with</p> <p>18 those orders, if we -- I do not remember.</p> <p>19 Q. Would you hold the orders?</p> <p>20 A. When you say hold, what do you mean?</p> <p>21 Q. Would you ship the orders?</p> <p>22 A. We --</p> <p>23 MS. FUMERTON: Objection; form.</p> <p>24 A. From what I remember, we did not ship the</p> <p>25 orders. The review may have been later than what</p>
<p style="text-align: right;">Page 203</p> <p>1 A. After the completion of this evaluation</p> <p>2 process, we would make a determination.</p> <p>3 Q. After the completion of this entire process,</p> <p>4 is that your testimony?</p> <p>5 A. Based on how I understand you asking me the</p> <p>6 question, we would determine if it's suspicious or</p> <p>7 not after the completion of the third evaluation.</p> <p>8 Is that not the question I'm being asked?</p> <p>9 Q. I appreciate that answer, I appreciate the</p> <p>10 clarification. I think you added some testimony to</p> <p>11 that, so I appreciate that.</p> <p>12 So the POM team member has reviewed the</p> <p>13 suggested data, they have made a phone call and they</p> <p>14 possibly talked to the pharmacy, they may not have.</p> <p>15 What happens if they -- what happens next?</p> <p>16 A. At that point, based on that order review,</p> <p>17 order evaluation, they would make a determination if</p> <p>18 the order could be shipped or cleared. If it was</p> <p>19 cleared, it would be sent back to the Reddwerks</p> <p>20 system to be able to be order filled and shipped.</p> <p>21 If they could not clear it, it would then go to a</p> <p>22 third level evaluation.</p> <p>23 Q. Okay. For that process to be completed,</p> <p>24 from when it first comes into your wheelhouse in the</p> <p>25 third cell, and leaves, is there an average time</p>	<p style="text-align: right;">Page 205</p> <p>1 designated. Let's just say, hypothetically, you</p> <p>2 were supposed to review it in two days, if that was</p> <p>3 the number, and we didn't do it for three, from what</p> <p>4 I recall, it's not that we shipped the order without</p> <p>5 the review, so the review was done in more than two</p> <p>6 days as we were transitioning to this program.</p> <p>7 Q. You can't say for certain that an order that</p> <p>8 sat for longer than your hypothetical two days, may</p> <p>9 have shipped or it may not, you can't say with</p> <p>10 certainty one way or the other?</p> <p>11 MS. FUMERTON: Objection; form.</p> <p>12 A. Would you restate the question for me?</p> <p>13 Q. I'm going to use your hypothetical two days,</p> <p>14 if that's okay with you.</p> <p>15 A. Yes, sir.</p> <p>16 Q. If an order was with the logistics team for</p> <p>17 more than two days, can you say definitively that</p> <p>18 that order would not ship?</p> <p>19 MS. FUMERTON: Objection; form.</p> <p>20 A. The process, the procedure was to not ship.</p> <p>21 To say it didn't, I cannot recall, and again, I</p> <p>22 can't recall when this exactly happened, because as</p> <p>23 the program was rolling out, some of the things we</p> <p>24 had to fine-tune was, what is a day, is it a</p> <p>25 business day, is it a calendar day, does the day</p>

<p style="text-align: right;">Page 206</p> <p>1 start when an order drops? There is a lot of</p> <p>2 decision points in fine-tuning this process.</p> <p>3 Q. I think that's slightly different. I think</p> <p>4 what I'm trying to get at is, regardless of we count</p> <p>5 calendar days, leap year, what have you, if it</p> <p>6 passes a certain point in time that you've defined</p> <p>7 as sufficient time to review it, what happens when</p> <p>8 that date expires to that order?</p> <p>9 MS. FUMERTON: Objection; form.</p> <p>10 A. Again, what I recall is that we may have</p> <p>11 gone past the time period on a few orders at the</p> <p>12 initial, but those orders were still reviewed.</p> <p>13 That's what I recall.</p> <p>14 Q. Okay. So I think your testimony was,</p> <p>15 correct me if I'm wrong, the second level order</p> <p>16 evaluation logistics team, clears the order, it goes</p> <p>17 back into Reddwerks and it's filled; is that right?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. If it's not cleared, what happens</p> <p>20 next?</p> <p>21 A. It goes to the third order evaluation.</p> <p>22 Q. And what happens there?</p> <p>23 A. Okay. At that one, I'm not as familiar with</p> <p>24 every detail. That was handled by our pharmacy</p> <p>25 practice compliance team. Basically they did a</p>	<p style="text-align: right;">Page 208</p> <p>1 Q. Was your friend, Miranda Johnson, in charge</p> <p>2 of that unit at all?</p> <p>3 MS. FUMERTON: Objection; form.</p> <p>4 A. Miranda reported to George.</p> <p>5 Q. Reported to George?</p> <p>6 A. Yes.</p> <p>7 Q. What -- when you say they would look at the</p> <p>8 prescriber's side, what do you mean by that?</p> <p>9 A. I didn't do those reviews with them, but I</p> <p>10 did get recaps at times of those reviews which I'm</p> <p>11 sure we'll discuss in just a bit. So they would</p> <p>12 look at the prescriber to see that prescriber's</p> <p>13 order patterns at that pharmacy.</p> <p>14 Q. And how would they have -- how would they</p> <p>15 access that data?</p> <p>16 MS. FUMERTON: Objection; form.</p> <p>17 A. I don't know specifically. My understanding</p> <p>18 would be it would be through our order filling</p> <p>19 system in the pharmacies, which is Connexus.</p> <p>20 Q. Connexus?</p> <p>21 A. Yes.</p> <p>22 Q. What other information would they consider</p> <p>23 other than the prescriber's data?</p> <p>24 A. I recall Miranda talking about our George at</p> <p>25 times, or Roxie, also had worked in that area, I</p>
<p style="text-align: right;">Page 207</p> <p>1 different type of review. Our review was based more</p> <p>2 on orders, some of the information, reports that</p> <p>3 just are reviewed earlier, they would look at a</p> <p>4 different side of it. They would look more at the</p> <p>5 prescriber's side, more of the patient's side.</p> <p>6 Q. Who was in charge of that group?</p> <p>7 MS. FUMERTON: Objection; form.</p> <p>8 A. When you say in charge of the group, it's a</p> <p>9 large group, so which level of in charge?</p> <p>10 Q. Well, let's back up. So the second level</p> <p>11 order evaluation team logistics --</p> <p>12 A. Okay.</p> <p>13 Q. Did those folks report to you?</p> <p>14 A. Yes.</p> <p>15 Q. So now coming down, third order evaluation</p> <p>16 compliance --</p> <p>17 A. Okay.</p> <p>18 Q. Who did those folk report to?</p> <p>19 A. Those individuals reported to George</p> <p>20 Chapman.</p> <p>21 Q. And that was for the entire time period of</p> <p>22 your tenure?</p> <p>23 A. I could not answer the entire -- the</p> <p>24 restructures and reorganizations so, I'm not -- I'm</p> <p>25 not sure.</p>	<p style="text-align: right;">Page 209</p> <p>1 think, was one of the individuals. Distance of</p> <p>2 patients. Distance, I said prescribers, distance.</p> <p>3 I think she would look at things that were how</p> <p>4 people potentially -- are patients paid for</p> <p>5 prescriptions. There is a multitude of factors that</p> <p>6 she looked at that I didn't have direct access to.</p> <p>7 Q. Okay. Thank you for that. I didn't want to</p> <p>8 cut you off, but I didn't catch the first line of</p> <p>9 what you said.</p> <p>10 A. Distance of patients. It was distance of</p> <p>11 patients is what I said.</p> <p>12 Q. I think it was just before distance of</p> <p>13 patients. It was something --</p> <p>14 A. I mentioned George, I mentioned Miranda and</p> <p>15 Roxie had worked. Roxie.</p> <p>16 Q. Are you saying George?</p> <p>17 A. George Chapman.</p> <p>18 Q. Got it.</p> <p>19 A. Okay.</p> <p>20 Q. Sorry.</p> <p>21 A. No, that's okay.</p> <p>22 Q. Hearing is a little bad today.</p> <p>23 Was the data that -- let me back up to the</p> <p>24 data that you were looking at.</p> <p>25 A. Okay.</p>

<p style="text-align: right;">Page 210</p> <p>1 Q. Okay. Was that run through any analytics 2 software or -- Tableau for instance? 3 MS. FUMERTON: Objection; form. 4 A. Tableau was relatively new to Walmart during 5 that time period, or it may have been in existence 6 before but to the logistics space it was relatively 7 new. 8 Q. So did you use -- did you use Tableau as 9 part of -- I'm sorry. Did the POM team use Tableau 10 as part of its analysis? 11 MS. FUMERTON: Objection; form. 12 A. Tableau was used. I don't know exactly what 13 Tableau was used for. 14 Q. Who used Tableau? 15 A. I know on the team Justin used Tableau. 16 Q. Justin, is it Rafiee? 17 A. Rafiee. I know Justin used it. I looked at 18 Tableau a few times. I didn't really -- I just 19 looked at it to learn more about it. I do not 20 recall if Dena or Jeff or Shawn or Lisa used 21 Tableau. 22 Q. Did you, in your role, look at any or -- I'm 23 sorry. Strike that. 24 Did you perform any trend analysis with 25 respect to opioids during your tenure?</p>	<p style="text-align: right;">Page 212</p> <p>1 -- but it wasn't the type of role he was looking 2 for. 3 Q. While he was in that role did he perform any 4 analysis regarding Schedule II opioids for Walmart? 5 MS. FUMERTON: Objection; form. 6 A. Yes, yes, he did. 7 Q. What were those analyses? 8 A. Well, the analysis was the question you 9 asked earlier about the artery evaluation, is that 10 the question you are asking me or is that a 11 different question? 12 Q. I'm asking you what analysis Justin Rafiee 13 performed on data regarding Schedule II opioids for 14 Walmart? 15 MS. FUMERTON: Objection; form. 16 A. Okay. That's three years ago. Let me 17 think. So Justin did our evaluations, because that 18 was a core part of his job. I know that Justin, 19 going back to the comment I made earlier, Justin was 20 going to start looking at data and developing some 21 type of different reports for me. I just don't 22 remember if he ever -- there may have been one or 23 two reports that Justin produced about most frequent 24 or common alerts, like which products were alerting 25 but it wouldn't have just been Schedule II. It</p>
<p style="text-align: right;">Page 211</p> <p>1 MS. FUMERTON: Objection; form. 2 A. Could you define for me what you mean by 3 trend analysis? It's different. Individuals have 4 different meanings. 5 Q. What's your definition for trend analysis? 6 A. Mine typically has been to start at point A 7 and go to point B and see what the difference is 8 between those two points. 9 Q. Okay. Did you do anything of the like with 10 respect to opioids? 11 MS. FUMERTON: Objection; form. 12 A. I have to think about that. There was a 13 time towards the beginning of this program when we 14 were getting it off the ground, I felt that that was 15 something that I wanted to look at and that was part 16 of the reason of hiring Justin. Justin's background 17 was computer science and he was brought on board to 18 help do that, but it never -- never really got the 19 initiative off the ground. Justin left the company 20 at some time period and it -- I didn't really push 21 anything on that. 22 Q. Why did Justin leave the company? 23 A. Justin -- it was not the right fit. He came 24 from a transportation background and with it being 25 logistics, he felt -- and I felt, it was a good fit</p>	<p style="text-align: right;">Page 213</p> <p>1 would have been across any controlled substance or 2 any drug of interest. 3 I don't remember Justin really doing much 4 else beyond that. I think that was partially why 5 Justin left the company was, you know, maybe it 6 wasn't -- it wasn't necessarily his skill set as 7 much as what I thought it was to do analysis. 8 Q. You hired him to do that analysis? 9 A. No. I hired him to do a multitude of things 10 but analysis was one. 11 Q. When he left the company, did you backfill 12 his position? 13 A. Yes. 14 Q. Did that person or did that person perform 15 analysis of opioids at your direction? 16 MS. FUMERTON: Objection; form. 17 A. I do not recall if the person that 18 backfilled him was Shawn or Lisa, but both had a 19 background in data, in reporting. 20 Q. What's Shawn's last name? 21 A. Robinson. 22 Q. What's Lisa's last name? 23 A. Holland. 24 Q. So do you recall any specific analysis that 25 you directed Justin to perform?</p>

<p style="text-align: right;">Page 214</p> <p>1 MS. FUMERTON: Objection; form.</p> <p>2 A. Seems that's the same question as earlier</p> <p>3 that you asked, and my answer was I do recall</p> <p>4 talking to -- to tell you specifically, I know I</p> <p>5 mentioned about orders that would -- or products</p> <p>6 that would alert more frequently, but beyond that, I</p> <p>7 don't remember specifics saying, Justin, I need this</p> <p>8 analysis done.</p> <p>9 Q. And did he complete that analysis regarding</p> <p>10 the more frequent orders?</p> <p>11 MS. FUMERTON: Objection; form.</p> <p>12 A. He completed a version of it, from what I</p> <p>13 recall, I don't think it was ever -- when you say</p> <p>14 complete, you're probably -- I would assume you're</p> <p>15 referring to 100 percent. I would not say it was</p> <p>16 100 percent.</p> <p>17 Q. Did you see drafts that were not 100</p> <p>18 percent?</p> <p>19 A. I do remember seeing a draft of something</p> <p>20 produced, and I don't remember -- you mentioned</p> <p>21 Tableau earlier. I don't recall if it was in</p> <p>22 Tableau or Excel or if there was a Visio or VBA</p> <p>23 function, I don't remember exactly what it was in.</p> <p>24 Q. I'm not familiar with the last two, the</p> <p>25 Visio and VBA function.</p>	<p style="text-align: right;">Page 216</p> <p>1 ahead and answer.</p> <p>2 A. I do not, no.</p> <p>3 Q. Let me go back to Exhibit 8 and the process</p> <p>4 flow. Third level order evaluation compliance,</p> <p>5 order gets cleared, it goes back to Reddwerks for</p> <p>6 fulfillment, is that correct?</p> <p>7 A. Could you state that again?</p> <p>8 Q. Sure. I'm in the fourth cell, third level,</p> <p>9 order evaluation compliance.</p> <p>10 A. Okay.</p> <p>11 Q. If an order is cleared by that team, it goes</p> <p>12 back to Reddwerks to be filled; is that right?</p> <p>13 A. If on the third level order evaluation it's</p> <p>14 cleared, then, yes, it would go back to Reddwerks.</p> <p>15 It would go -- let me phrase that -- let me make</p> <p>16 sure I phrase that succinctly.</p> <p>17 So a third order level review would be done,</p> <p>18 the information would then be discussed per our</p> <p>19 procedure, and if at that time it was determined to</p> <p>20 be a suspicious order, it was not shipped and</p> <p>21 reported. If it was not determined to be a</p> <p>22 suspicious order, the order was sent back to</p> <p>23 Reddwerks to be order filled.</p> <p>24 Q. You say if it was not shipped and reported.</p> <p>25 Reported to whom?</p>
<p style="text-align: right;">Page 215</p> <p>1 A. Visio is a product by Microsoft that gives</p> <p>2 process maps. And the VBA is -- I don't know a lot</p> <p>3 about it, but I know some people have provided me</p> <p>4 reports saying it comes out of VBA and the reports</p> <p>5 look similar to the reports that come out of Excel</p> <p>6 or come out of other tools.</p> <p>7 Q. And do you recall any of those reports</p> <p>8 involving opioids?</p> <p>9 MS. FUMERTON: Objection; form.</p> <p>10 A. It seems going back to the previous two</p> <p>11 times I answered this question, that yes, they did</p> <p>12 but they involved other things besides opioids. I</p> <p>13 just can't recall the exact content of those</p> <p>14 reports.</p> <p>15 Q. Do you know if those reports have been</p> <p>16 produced in this case?</p> <p>17 MS. FUMERTON: Objection; form.</p> <p>18 A. I do not know if they have, no.</p> <p>19 Q. Did you review those reports prior to today?</p> <p>20 MS. FUMERTON: Objection; form.</p> <p>21 Q. In preparation for today?</p> <p>22 MS. FUMERTON: Again, anything that was</p> <p>23 looked at with counsel, I will object to and</p> <p>24 instruct you not to answer, but to the extent it</p> <p>25 was outside of any meetings we had, you can go</p>	<p style="text-align: right;">Page 217</p> <p>1 A. It would have been reported to the</p> <p>2 appropriate regulatory agency.</p> <p>3 Q. The DEA?</p> <p>4 A. That would be one of the agencies.</p> <p>5 Q. State agencies?</p> <p>6 A. Potentially. I wasn't involved in the</p> <p>7 reporting.</p> <p>8 Q. I'm curious. If you were to transpose the</p> <p>9 second level order evaluation with the third level</p> <p>10 order evaluation, such that the compliance team</p> <p>11 reviewed it first, would that have the potential to</p> <p>12 change the outcome of your suspicious order</p> <p>13 monitoring program?</p> <p>14 MS. FUMERTON: Objection; form.</p> <p>15 A. I've never thought about that. I would need</p> <p>16 more time to think through that.</p> <p>17 Q. So we've passed through the third level</p> <p>18 order evaluation. Now we're into the determinative</p> <p>19 order. It's suspicious logistics and compliance.</p> <p>20 So this order has been reported to the DEA already,</p> <p>21 and now a logistics team and compliance team is</p> <p>22 looking at the order again; is that correct?</p> <p>23 MS. FUMERTON: Objection; form.</p> <p>24 A. No. No. I don't think what you said was</p> <p>25 correct. Could you restate that?</p>

<p style="text-align: right;">Page 218</p> <p>1 Q. We can do it a different way. What happens 2 when the order passes from the third level to this 3 fifth cell? 4 A. That is where the determination using all 5 the different data points, evaluations are done to 6 make a determination. 7 Q. So I want to make sure we're clear here. I 8 thought your testimony was that after the third 9 level it's determined to be suspicious and it's 10 reported to the DEA. Is that not correct? 11 A. No, that's not what I was stating. It goes 12 from the third level to this box, this second box 13 from the right or second box from the left on the 14 second row. That is where the determination is 15 made. 16 Q. Okay. So now we've got an order that's 17 passed all the way from Reddwerks through the first 18 level, through the second level, through the third 19 level and now we're going to have eyes on it from 20 both the logistics team and the compliance team? 21 A. Yes. 22 Q. And the determination is going to be jointly 23 as to whether or not it's a suspicious order? 24 A. Yes. 25 Q. And if it's determined to be a suspicious</p>	<p style="text-align: right;">Page 220</p> <p>1 think it never hurts to continuously review stuff. 2 It could have been in the evaluation progress, there 3 is a potential someone could have overlooked 4 something, this gave another set of review as a 5 quality check to make sure that nothing was mixed. 6 Q. So are these folks at this step going back 7 anew, as to say are they looking with fresh eyes and 8 making a phone call to the pharmacy themselves? 9 MS. FUMERTON: Objection; form. 10 A. No. 11 Q. So they are relying on the reports that are 12 generated out of the logistics evaluation at the 13 second level and the third level compliance 14 evaluation, correct? 15 A. Yes. 16 Q. There is no new information they are looking 17 at at this level? 18 MS. FUMERTON: Objection; form. 19 A. I would disagree with that. 20 Q. What new information is included in this? 21 A. The way that you're surmising it is that 22 there is never any new information. Maybe there was 23 a time where the information was unclear, that a 24 call was made or something else was looked at, but 25 to say every time that was done, the answer would</p>
<p style="text-align: right;">Page 219</p> <p>1 order it's reported to the DEA? 2 A. Yes. 3 Q. What other criteria does this team, the 4 logistics and compliance team, look at to determine 5 whether or not the order was suspicious? 6 A. The majority of the information came from 7 the two evaluations. It was a collective review of 8 all their information. 9 Q. So explain to me why that's a necessary 10 step? 11 MS. FUMERTON: Objection; form. 12 A. Go ahead. I'm sorry. Repeat that because 13 I -- 14 Q. Okay. It sounds redundant to me. It sounds 15 that you have already looked at it from a logistics 16 point of view, you have looked at it from a 17 compliance point of view and now you are telling me 18 there is no new data that's looked at, you're just 19 looking at the same data again. Is that a fair 20 statement? 21 MS. FUMERTON: Objection; form. 22 A. Yes, I think that's a fair statement. 23 Q. Okay. Why is that a necessary step? 24 MS. FUMERTON: Objection; form. 25 A. From -- and this is my personal opinion. I</p>	<p style="text-align: right;">Page 221</p> <p>1 have been no, which is what I thought your question 2 was. 3 Q. So there is information that can make it 4 into the consideration -- the joint consideration 5 between logistics and compliance at step four that 6 was not considered at second level and third level? 7 A. No, that's not what I'm saying. It could be 8 information that was provided that's unclear at that 9 point. That may be the notes of the conversation 10 with the pharmacist. It's unclear exactly what the 11 context of that was, so hey, let's make another call 12 to make sure we fully understand what the 13 conversations between party A and party B was. 14 Q. Who is that next call to? 15 A. Say that again. 16 Q. You just said let's make another call? 17 A. Well, we potentially would call back that 18 pharmacy or could call and discuss with them. 19 Q. I thought you testified earlier that they 20 wouldn't make another call? 21 MS. FUMERTON: Objection; form. 22 A. No, I think you're confused. Either I'm 23 confusing this or you are confusing. One of us is 24 confused. 25 Q. I don't think I am confused.</p>

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1 A. All right. I think I would beg to differ on
 2 that. Basically, on this part here, if we reviewed
 3 the information and anything was unclear or there
 4 was just a question that maybe came up, there could
 5 have been another call that was made. It doesn't
 6 necessarily mean there was but there could have
 7 been.
 8 Q. Okay. So is that -- so new information
 9 could possibly potentially maybe be considered in
 10 Cell 5 is a phone call, a second phone call to the
 11 pharmacy; is that correct?
 12 MS. FUMERTON: Objection; form.
 13 A. I'm not sure your intent of your question.
 14 Is your intent that it's a call or is your intent
 15 additional information, because that's where I'm
 16 trying to --
 17 Q. It's very simple, not trying to play gotcha.
 18 Not trying to confuse anybody.
 19 I'm trying to figure out what data points
 20 and information was considered at each step of your
 21 suspicious ordering monitoring process flow.
 22 A. Okay.
 23 Q. I have got a very good sense of what's going
 24 on, Cell 1, 2, 3 and 4, although I think I need to
 25 speak to somebody else about the particulars of

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1 Cell 4 and now I need to know what's going on in
 2 Cell 5.
 3 A. 1, 2, 3, 4.
 4 Q. What is Walmart considering in Cell 5?
 5 MS. FUMERTON: Objection; form.
 6 A. Okay. Cell 5 is a consideration of Cell 3
 7 and 4, the information that was garnered during
 8 those evaluations.
 9 Q. So does anyone in the team in Cell 5 go out
 10 looking for more information?
 11 MS. FUMERTON: Objection; form.
 12 A. Going back to the earlier statements,
 13 potentially, yes, there could have been. Like,
 14 sitting here today, to remember back from all the
 15 evaluations that were done to tell you X was done, Y
 16 was done, Z was done, I would not be able to answer
 17 that, but there is a potential that it could have
 18 been.
 19 Q. Did you ever go out in your -- strike that.
 20 Did you participate in Cell 5 evaluations?
 21 A. One, two, three -- yes.
 22 Q. In any of your evaluations in Cell 5 did you
 23 look for information beyond the scope of what was
 24 reported to you from the second and third level
 25 review?

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1 MS. FUMERTON: Objection; form.
 2 A. I don't -- to say that I went out and looked
 3 for additional information or was I a party to
 4 getting additional information, those are two
 5 different things.
 6 Q. I can clarify.
 7 A. Okay.
 8 Q. Did you consider additional information?
 9 MS. FUMERTON: Objection; form.
 10 A. From what I recall, there were times that we
 11 did consider additional information.
 12 Q. And what additional information did you
 13 consider?
 14 A. There may have been a question that I had on
 15 clarity of notes that were read, or if there was a
 16 comment that was made about the prescriber review,
 17 could you tell me more information about that
 18 prescriber. It could have been something as simple
 19 as that.
 20 Q. So do you recall specific instances where
 21 you went back and sought clarity on those data
 22 points?
 23 A. Whenever we were doing those evaluations, if
 24 I had questions about something, I sought clarity at
 25 that time period, is when I sought clarity.

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1 Q. And that process was fully documented?
 2 MS. FUMERTON: Objection; form.
 3 Q. There is a record of you going and asking
 4 for clarity on those otherwise unclear data points?
 5 MS. FUMERTON: That's not a question. I'm
 6 trying not to interrupt.
 7 Q. Is there a record?
 8 MS. FUMERTON: Objection; form.
 9 A. Just restate it again.
 10 Q. Is there a record of the times that you went
 11 and sought clarification regarding information you
 12 found to be ambiguous in the second and third level
 13 reviews?
 14 MS. FUMERTON: Objection; form.
 15 A. There potentially could be a record of it.
 16 Q. Where would we find that record?
 17 A. During those evaluation reviews, notes were
 18 taken by the Compliance Team, and so they may, in
 19 those notes, record that. I'm not sure if they did
 20 or not.
 21 Q. Where did they save their notes?
 22 A. That, I do not know.
 23 Q. Did they save them on their hard drive?
 24 A. I really do not know the answer to the
 25 question.

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1 Q. Did they save them in ReddWerks?
2 MS. FUMERTON: Objection; form.
3 A. I would say no in ReddWerks because
4 ReddWerks wasn't a note-taking function. But to
5 tell you -- the question I think you asked is: Do I
6 know where they took notes. The answer is, no, I do
7 not know where they placed the notes.
8 Q. Were they uploaded to -- or transcribed to
9 the system that the phone calls were transcribed to?
10 A. Again, I do not know.
11 Q. You don't know or they were not?
12 A. I cannot answer either, apparently the way
13 you're asking the questions because you keep asking
14 me the same question. So are you asking me if they
15 had taken notes or what they're doing with the
16 notes? Which of the two that you're asking?
17 Q. I'm asking where they saved their notes, if
18 they did.
19 A. I do not know where they saved their notes,
20 no.
21 Q. Were they required to save their notes?
22 MS. FUMERTON: Objection; form.
23 A. I would just make an assumption if they were
24 or not. I don't know specifically if they,
25 themselves, were told they had to save those notes

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1 in a specific spot.
2 Q. You were in charge of this team, were you
3 not?
4 A. No --
5 MS. FUMERTON: Objection; form.
6 A. -- I was not.
7 Q. You're not in charge of the Logistics --
8 Logistics Team?
9 A. I was, but the Compliance Team was the one
10 taking the notes.
11 Q. The Logistics Team and the Compliance Team
12 are participating in Cell 5 together, are they not?
13 A. Yes.
14 Q. Are there members of the Logistics Team that
15 are part of that consideration about whether or not
16 to determine if an order is suspicious?
17 MS. FUMERTON: Objection; form.
18 A. State it one more time.
19 Q. Are there members of the Logistics Team that
20 are determining if an order is suspicious or not in
21 Cell 5?
22 A. Yes.
23 Q. Are those members of the Logistics Team, the
24 team that you're in charge of, required to take
25 notes or record their findings?

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1 MS. FUMERTON: Objection; form.
2 A. In this review, to make sure that we're
3 clear, that -- you're referring to me in this box.
4 Is that clear -- correct or not?
5 Q. We're both in Cell 5.
6 A. Yes.
7 Q. The one in the middle of the page.
8 A. Yes.
9 Q. I'm referring to you or your team members.
10 A. Okay.
11 Q. And how they participated in that process.
12 Did they document their participation?
13 MS. FUMERTON: Objection; form.
14 A. The participation is documented by the
15 Compliance Team, and that was --
16 Q. Did they take notes regarding the specifics
17 of their participation?
18 MS. FUMERTON: Objection; form.
19 A. I feel like I've answered this question at
20 least seven times, so if there's --
21 Q. I have not -- I have not gotten an answer to
22 this question.
23 MS. FUMERTON: Well, I disagree, but -- if
24 you can restate your question, but I agree that
25 he's answered this question as much as he can,

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1 and there appears to be confusion here.
2 MR. INNES: It's very --
3 MS. FUMERTON: I can't ask your questions
4 for you, but part of the problem --
5 MR. INNES: I'm not asking you to --
6 MS. FUMERTON: Well, I know, but part of the
7 problem is that this is -- I'll just say I'll
8 make any objections to form.
9 Q. I'll try to break this down a little bit.
10 So you're in charge of the Logistics Team in
11 Health & Wellness for executing the suspicious order
12 monitoring policy as it pertains to opiates; is that
13 correct?
14 A. Yes.
15 MS. FUMERTON: Objection; form.
16 Q. You -- in Cell 5, it says that a
17 determination -- to determine if an order is
18 suspicious, the Logistics Team and Compliance Team
19 participate in that cell; is that correct?
20 MS. FUMERTON: Objection; form. Misstates
21 the document.
22 A. Sorry, say the question again.
23 Q. Do members of the Logistics and Compliance
24 Team participate together in -- at the fifth step?
25 A. Yes.

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1 Q. Do the members of your team, the Logistics
2 Team, document their participation in writing?
3 MS. FUMERTON: Objection; form.
4 A. The answer is no.
5 Q. They do not?
6 A. It was -- it was a review conversation
7 amongst the two parties, so, no, to answer your
8 question, it was not.
9 Q. So describe for me how that happens.
10 A. Okay.
11 Q. We've got an order. It's made it all the
12 way to Step 5. How does that meeting happen?
13 MS. FUMERTON: Objection; form.
14 A. And just to clarify, it says, though --
15 you're saying there's no notes taken. I have told
16 you that there's notes taken. Is there --
17 Q. I want to know where I can find copies of
18 those notes.
19 A. Which, again, those are taken by the
20 compliance department, and you would have to ask
21 them where those notes are --
22 Q. Okay.
23 A. -- so --
24 Q. Now we're getting somewhere. So the
25 Compliance Team is the only people taking notes in

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1 the meeting?
2 MS. FUMERTON: Objection; form. Misstates
3 prior testimony.
4 A. During these meetings I was a part of, I did
5 not take notes, no, sir.
6 Q. Why didn't you take notes?
7 A. We -- a determination was made that there
8 would be a note-taker of who took notes, and the
9 compliance department was responsible for taking
10 those notes.
11 Q. Okay. So that was a policy?
12 MS. FUMERTON: Objection; form.
13 A. It was advice.
14 Q. Who gave you that advice?
15 MS. FUMERTON: Objection to the extent it's
16 calling for privileged information.
17 Otherwise, you can answer the question. If
18 you can't answer the question without revealing
19 privileged information, I instruct you not to
20 answer.
21 Q. Were you advised by a nonlawyer?
22 A. No.
23 Q. Okay. So to be clear, are you refusing to
24 answer the question because the advice to not take
25 notes -- to have one note-taker was provided to you

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1 by counsel?
2 MS. FUMERTON: Objection to the form of that
3 question.
4 To the extent that question is going to --
5 if answering that question will reveal privileged
6 information, I'm instructing you not to answer
7 that.
8 You can ask him if he's going to follow my
9 instruction not to answer the question, but
10 asking him sort of the legal basis for my
11 instruction is improper.
12 So I'm instructing you not to answer that
13 question.
14 MR. INNES: I was waiting for that.
15 MS. FUMERTON: Oh, no. I did.
16 BY MR. INNES:
17 Q. So you're not -- you're not going to answer
18 the question; is that correct?
19 A. I'm going to take advice from counsel.
20 Q. Do you recall who was in the room when you
21 were provided that advice?
22 MS. FUMERTON: Objection; form. You haven't
23 established what the advice was. That's the
24 whole point of --
25 MR. INNES: I think we did.

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1 MS. FUMERTON: Well --
2 MR. INNES: We definitely --
3 MS. FUMERTON: -- this is why --
4 MR. INNES: -- established what the advice
5 was. The advice was one person from compliance
6 takes notes.
7 MS. FUMERTON: Fine.
8 MR. INNES: That's the record.
9 MS. FUMERTON: We're not going to get into
10 the context in which the advice was given.
11 Look, I'll talk to -- I'll talk -- Michael,
12 here's my suggestion on this. I will talk -- I
13 will talk during a break -- if we take one now, I
14 think, for the purposes of --
15 MR. INNES: Not --
16 MS. FUMERTON: -- making things go forward,
17 then we can take a break and ask if there is a
18 way that this can be answered, but without taking
19 a break, based on what was said, I am instructing
20 him not to answer.
21 BY MR. INNES:
22 Q. Do you recall who was in the room when you
23 were provided that advice?
24 A. I don't recall everyone that was in the
25 room.

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1 Q. Do you recall anyone that was in the room?
2 A. I recall counsel was in the room.
3 Q. Were there other humans in the room?
4 MS. FUMERTON: Objection; form.
5 A. I don't know who else was not counsel in
6 that room. I was new -- new into the role, a year
7 in about this time period, maybe six months time,
8 still meeting new people. I mean, all the way up
9 into a year I was meeting new people.
10 That meeting was during that six- to
11 nine-month time period potentially. I don't know
12 who -- I don't know everyone that was in the room.
13 If I had to estimate the time period, January to
14 May, June, sometime in that range is where I recall
15 this meeting.
16 Q. What year is that?
17 A. I don't -- it had to be in the 2015 time
18 period.
19 Q. Did you ever take notes at one of these
20 meetings, regardless of the advice of counsel?
21 MS. FUMERTON: Objection; form and --
22 A. Not --
23 Q. Did you disregard -- did you disregard the
24 advice not to take notes in the meeting?
25 MS. FUMERTON: Objection; form. That's

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1 mischaracterizing what his prior testimony was.
2 Well, now, look, because you are -- you are
3 dancing around a privileged issue, and I will
4 protect the privilege --
5 MR. BOWER: You can object to the form and
6 instruct him not to answer. That's how you do
7 it. Okay? Just move along.
8 MS. FUMERTON: I am trying to move along.
9 MR. INNES: Either object --
10 MS. FUMERTON: There's a way to get through
11 this.
12 MR. INNES: -- object to the form --
13 MS. FUMERTON: -- we had a long discussion
14 about this. We can --
15 MR. BOWER: Either object to form or
16 object --
17 MS. FUMERTON: Then I'm instructing him not
18 to answer that question. The -- object to form
19 and I am instructing him not to answer that
20 question.
21 A. I'll take advice of my counsel.
22 Q. So you didn't -- so you testified that there
23 were a lot -- a lot of people in the room that you
24 didn't know, correct?
25 MS. FUMERTON: Objection; form.

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1 A. There were people in the room. I don't know
2 if they were attorneys or counsel or not.
3 Q. Sitting here today, do you know the names --
4 I'm not asking you to list them, but do you know the
5 names of the people that were in that room?
6 A. I seem to recall a few of the people there.
7 I just don't know, again, exactly --
8 Q. So it's possible not everyone in the room
9 was a lawyer?
10 A. It is possible.
11 Q. Okay. Thank you. So let's go back to
12 Cell 5. You're considering information that's in
13 the second level report. You're considering
14 information that's in the third level report.
15 Explain to me how you're communicating --
16 the communications are between the Logistics Team
17 and the Compliance Team are happening. Is this an
18 e-mail communication?
19 A. Could you restate the question, make sure I
20 understand it?
21 Q. Describe to me the process -- the process of
22 Cell 5.
23 A. Okay. Cell 5, usually there was a meeting
24 that was set up with myself by a member of the
25 Compliance Teams. It was just typically a planner,

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1 just a normal calendar -- there was an e-mail for a
2 meeting. The individuals were at the office. It
3 was a face-to-face meeting, and then we -- they
4 would review data with me.
5 Q. How long would those meetings go?
6 A. Some could be as short as 30 minutes. There
7 were a few that lasted a few hours.
8 Q. And how many -- how often did you have those
9 meetings?
10 A. It was when necessary based on the
11 procedure, the time periods and the procedure.
12 Q. How long would those meetings last if you
13 would, let's say -- strike that.
14 Was the average time to make a decision on a
15 particular order in that meeting?
16 A. A typical order was between 20 and 30
17 minutes.
18 Q. Back to Cell 3, the team -- the POM Team
19 that was in your purview, how long did it take them
20 to clear an average order?
21 MS. FUMERTON: Objection; form.
22 Q. Or to make -- strike that -- to make a
23 determination as to whether an order was cleared or
24 should pass to the next level?
25 A. I don't recall exactly the time period, but

<p style="text-align: right;">Page 238</p> <p>1 when I had touched bases with them to just get an 2 understanding of their work, they would spend 3 approximately, in a nine-hour day, seven of those 4 nine hours doing order reviews. 5 Q. And how many orders in a given day? 6 MS. FUMERTON: Objection; form. 7 A. I don't remember exactly how many. 8 MS. FUMERTON: Are you switching topics? Is 9 this time for a good break? 10 MR. INNES: No. I'm going to stay on this 11 topic. 12 (Ducote Exhibit 9 was marked for 13 identification.) 14 BY MR. INNES: 15 Q. This has been marked as Plaintiffs' 16 Exhibit 9. Sorry, my arms are getting shorter, 17 apparently. 18 A. Okay. 19 Q. So we're looking at an e-mail, Plaintiffs' 20 Exhibit 9. It's an e-mail from Chad Ducote to 21 Michael Stephenson, May 8th, 2015. It's Bates 22 Number 20060. 23 Mr. Ducote, about halfway down -- maybe a 24 quarter of the way down the page, there is a bullet 25 that says: "Logistics evaluation takes an average</p>	<p style="text-align: right;">Page 240</p> <p>1 Q. So in eight minutes, we're at the second 2 level of order evaluation; is that correct? 3 A. Yes. 4 Q. That cell takes eight minutes to do? 5 A. No -- 6 MS. FUMERTON: Objection; form. 7 THE WITNESS: Sorry. 8 A. No, that's not necessarily what I'm stating. 9 Q. So Exhibit 9 says logistics review takes an 10 average of eight minutes, something to that effect. 11 Is that correct? 12 MS. FUMERTON: Objection; form. 13 Q. What does it say? You can read it. 14 MS. FUMERTON: Objection; form. 15 A. I think what -- the way I understood your 16 question, it could be how I understood it, that 17 every alert takes eight minutes. The answer would 18 have been no. Some could take longer, some less, 19 depending on what was -- what the data showed. 20 Q. So on 5/8/2015, you send an e-mail to 21 Mr. Stephenson and you run some metrics, it appears, 22 on the time it takes to do certain tasks in the 23 suspicious order monitoring program. Halfway down 24 it says: Logistics evaluation takes an average of 25 eight minutes per alert.</p>
<p style="text-align: right;">Page 239</p> <p>1 of 8 minutes per alert." 2 Is that accurate? 3 MS. FUMERTON: Objection; form. 4 A. That was the information from the pilot that 5 we were doing at 6028. 6 Q. Okay. Did that information, to the best of 7 your recollection, change after -- over the course 8 of time? 9 A. I don't recall if we went back and did a 10 time study. I don't recall if we went back and 11 redid a time study on how long it took. 12 Q. If you'd done a time study, who would have 13 done that time study? 14 A. It probably would have been done by the team 15 and myself who probably would have gone back to look 16 at it. 17 Q. Do you recall ever doing a time study? 18 A. It seems at one point that I had worked with 19 them to do a time study to make sure that we were -- 20 it does seem at one point, yes. 21 Q. Okay. And do you have reason to believe 22 that that -- that the later time study you did was 23 different than eight minutes? 24 MS. FUMERTON: Objection; form. 25 A. I don't recall specifically.</p>	<p style="text-align: right;">Page 241</p> <p>1 I notice farther down, it says: Current 2 time commitment is 22 alerts times eight minutes 3 equals three hours per day. 4 I'm wondering if at any point in time over 5 your tenure, the logistics evaluation which is 6 represented in Cell 3 took longer than an average of 7 eight minutes. 8 MS. FUMERTON: Objection; form. 9 A. It potentially could have. I couldn't 10 answer specifically. 11 Q. Did that average significantly rise? 12 MS. FUMERTON: Objection; form. 13 A. I could not answer that question. I don't 14 know if it significantly rose or if it rose for 15 certain orders. I couldn't answer that. 16 Q. And for -- for an average evaluation, your 17 team members would consider a laundry list of data 18 points and make phone calls; is that right? 19 A. Again -- 20 MS. FUMERTON: Objection; form. 21 A. -- just to be clear, this was on the pilot, 22 is what we're talking about. As time went on, 23 processes could have been refined. That's why I 24 don't feel I can answer your question specifically 25 on how much time it took.</p>

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1 MS. FUMERTON: I'll just make a statement on
2 the record, because this is why I objected to
3 your assumption earlier. You made a statement
4 earlier that you wanted to assume that your
5 questions only referred to Schedule II opioids.
6 But then you keep asking the witness questions
7 and documents that aren't so limited. So I just
8 want to make it clear that your assumption
9 apparently no longer applies.

10 MR. INNES: I'm talking about the metrics
11 that were provided here and comparing them to the
12 metrics that are here.

13 MS. FUMERTON: Limited to Schedule II
14 opioid, or are you talking about drugs in
15 general? Because this is my problem with your
16 assumption.

17 MR. INNES: His testimony was the process
18 applies equally, and we're talking about apples
19 to apples here. We're talking about a logistics
20 review, and we're talking about --

21 MS. FUMERTON: But you're asking him about
22 the amount of time. That's my -- that's the
23 clarification I'm trying to make. I'm just
24 asking if you're still on the record that that's
25 the assumption that you're asking everybody to

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1 make when you're talking about -- or as you're
2 talking about --

3 MR. INNES: I can -- I can make this one
4 very clear.

5 MS. FUMERTON: Okay.

6 BY MR. INNES:

7 Q. Did you ever run an analysis for the amount
8 of time it took to do a logistics review for
9 opioids?

10 MS. FUMERTON: Objection; form.

11 A. Not that I recall.

12 Q. So the metrics that we're referring to in
13 Exhibit 9, are those run against all drugs in
14 Logistics Team review that would be part of the
15 suspicious order monitoring program?

16 A. Could you restate that question?

17 Q. Do you recall what the -- what drugs were
18 taken into account when determining the average time
19 frame to clear an order at the second level review?

20 A. I don't -- of that 157 alerts that's listed,
21 I don't know exactly which drugs those were.

22 Q. Would there be a way to determine which
23 drugs those were?

24 A. I would assume, yes, out of the Reddwerks
25 system.

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1 THE COURT REPORTER: Say that again.

2 THE WITNESS: I would assume, yes, out of
3 the Reddwerks system.

4 Q. How would you go about using the Reddwerks
5 system to determine, of those 157 alerts, what
6 particular drugs they involved?

7 A. I personally couldn't tell you exactly how
8 to do that. My general assumption is that the data
9 in Reddwerks is archived, and that someone that
10 understood the system better than I did could find
11 that information.

12 Q. How long is that data archived for?

13 A. I don't know exactly.

14 Q. Following the meeting at schedule -- at
15 Cell 5 --

16 A. Cell 5. Okay.

17 Q. -- if you determine an order to not be
18 suspicious, are you contravening the findings at the
19 second level and third level?

20 A. Say that again.

21 Q. Are you reversing the order of the decision
22 in the second level and third level review at that
23 point?

24 MS. FUMERTON: Objection; form.

25 A. No, I don't believe that we have.

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1 Q. So for an order to get to Cell 5, it has
2 to -- it did not get cleared by the second level,
3 correct?

4 A. Yes.

5 Q. It's still an order of interest?

6 A. Yes.

7 Q. It gets to the third level, it's still an
8 order of interest. It gets to the fifth level, gets
9 to the fifth box --

10 A. Uh-huh.

11 Q. -- if it's shipped, is that a reversal of
12 the order of interest?

13 MS. FUMERTON: Objection; form.

14 A. No. No, I do not think so.

15 Q. If it is determined to be suspicious, what
16 happens next?

17 A. Then the order is not shipped, obviously.
18 We've discussed that. A report is made to the DEA.
19 And then with the pharmacy, the Practice Compliance
20 Team had a protocol that they put in place for
21 additional potential training, various things. I
22 wasn't involved in the day-to-day activities of
23 that.

24 Q. Is that the remediation plan involved in
25 Cell 7?

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1 A. Yes.
2 Q. How often were -- well, strike that.
3 How long between when an order was
4 determined to be suspicious and when it was reported
5 to the DEA?
6 MS. FUMERTON: Objection; form.
7 A. I don't know the exact time period. There
8 was a time period that it was done in. I just can't
9 tell you exactly what that time period is. It was
10 reported by the Compliance Team.
11 Q. And that was a stated -- a stated policy at
12 Walmart?
13 MS. FUMERTON: Objection; form.
14 A. Seems, as I recall, it was in a stated
15 policy.
16 Q. So somewhere I could find a Walmart document
17 that said an order has been determined to be
18 suspicious and it must be reported by -- something
19 to that effect?
20 A. In that policy, I cannot recall if it said
21 exactly the words you said, but it does state about
22 reporting it. The time frame, I think, is the part
23 that I'm struggling to remember what it specifically
24 said.
25 Q. Do you remember where you saw that policy?

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1 A. I do not.
2 MS. FUMERTON: We've been going a little bit
3 over an hour. Can we take a break?
4 MR. INNES: Yeah. Can you --
5 MS. FUMERTON: Make it short? Yeah, will
6 do.
7 THE VIDEOGRAPHER: Going off the record, the
8 time is 2:30.
9 (Recess from 2:30 p.m. until 2:47 p.m.)
10 THE VIDEOGRAPHER: Going back on record,
11 beginning of Media File Number 8. The time is
12 2:47.
13 BY MR. INNES:
14 Q. Okay, Mr. Ducote. I think we can maybe make
15 one final push here.
16 A. Okay.
17 Q. What I'd like to do is go around the horn
18 again on this exhibit.
19 A. Okay. On 9?
20 Q. 9, yes.
21 A. Okay.
22 MS. FUMERTON: Oh, wait. You're not looking
23 at the same one he's looking at, which is 9.
24 Q. Oh, sorry. I'm on the chart. Is that --
25 A. This was 8.

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1 Q. That's 8. I'm sorry. Thank you.
2 So starting at the top, Cell 1, orders of
3 interest identified by Reddwerks, how many orders
4 for opioids does Walmart receive on a weekly basis,
5 on average?
6 MS. FUMERTON: Objection; form.
7 A. I really do not recall what that weekly
8 average was while I was in the role.
9 Q. Hundreds? Any guess?
10 MS. FUMERTON: Objection; form.
11 A. I don't remember exactly, but any numbers I
12 looked at were just alerts in general. It was
13 noncontrols, controls, which included opioids. I
14 never looked at it specifically to say opioids. If
15 I did, I just don't remember what the numbers were.
16 Q. Okay. So you never recall running a report
17 to determine how many Schedule II opioids Walmart
18 receives on -- in any given time frame?
19 MS. FUMERTON: Objection; form.
20 A. I don't recall, specifically for opioids or
21 C2, a report.
22 Q. At the first level of evaluation, can you
23 say the percentage of orders that were -- that were
24 marked for further review?
25 MS. FUMERTON: Objection; form.

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1 A. At some point during that role, I did see
2 that number. I don't remember what it was. That
3 would be speculating on the number.
4 Q. Are the numbers available to you?
5 MS. FUMERTON: Objection; form.
6 A. I did see it. I would assume it is at some
7 place.
8 Q. So at some point in time, it was available
9 for -- available to you?
10 A. Yes.
11 Q. And you don't have reason to believe that
12 that number is no longer available; is that correct?
13 A. No, I don't have a reason to believe. I
14 just don't know, since I've been out of the role,
15 what has changed as far as what's available.
16 Q. So of the first level orders that are held
17 for further review at the second level, what
18 percentage of those -- what percentage of the first
19 levels make it through -- are held for second level
20 review?
21 MS. FUMERTON: Objection; form.
22 A. And that would be the same answer as
23 previous.
24 Q. And what percentage of second level holds
25 are held for further -- further level review by

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1 compliance?
2 A. I don't remember that number.
3 Q. And I take it that you won't -- you don't
4 recall the percentage of orders that are determined
5 to be suspicious following a third level review?
6 MS. FUMERTON: Objection; form.
7 A. I don't remember a percentage. I mean, it
8 was a -- I didn't -- it never was a percentage. It
9 was more just a number. If the numbers came in --
10 if I said that -- if the number -- how do I -- how
11 am I trying to say?
12 Each week a certain number would come in, is
13 what I'm trying to say.
14 Q. Okay. So if we went through this again and
15 I asked you ballpark raw number of orders that come
16 into Walmart for Schedule II opioids, would you know
17 that?
18 A. No.
19 MS. FUMERTON: Objection; form.
20 A. I wouldn't. I'd be guessing.
21 Q. Was it not important to you to know how many
22 orders were being flagged suspicious by the
23 pharmacies in Walmart's -- from orders of pharmacies
24 in Walmart's network?
25 MS. FUMERTON: Objection; form.

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1 A. You've gone back to the earlier comments.
2 When we looked at this, this was more of a broader
3 program that involved other drugs besides opioids.
4 So I didn't specifically look at just the opioid
5 piece.
6 Q. Were there other drugs sold by Walmart that
7 are resulting in the epidemic proportions the same
8 as opioids?
9 MS. FUMERTON: Objection; form.
10 A. That's not a question I can really comment
11 on. I don't have a basis on what to comment on for
12 that.
13 Q. You'd agree that opioids are highly
14 addictive; is that correct?
15 MS. FUMERTON: Objection; form.
16 A. I think that's the DEA's definition.
17 Q. You have a degree in pharmacology, do you
18 not?
19 A. Pharmacy.
20 Q. Pharmacy?
21 A. Uh-huh.
22 Q. And you studied the chemical effects of
23 drugs on the human body?
24 A. Yes.
25 Q. Do you agree that heroin is highly

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1 addictive?
2 A. I think there is a general agreement that it
3 is, yes.
4 Q. Do you agree with it?
5 A. Yes. I don't have any personal experience
6 with it, but I do agree from what I have read, what
7 I've studied.
8 Q. Do you agree that opioids are highly
9 addictive?
10 MS. FUMERTON: Objection; form.
11 A. They potentially can be.
12 Q. Do you believe that oxy is highly addictive?
13 MS. FUMERTON: Objection; form.
14 A. It potentially can be.
15 Q. Do you believe that hydrocodone is highly
16 addictive?
17 A. These are all the same drugs basically that
18 you're asking me about.
19 Q. Can you -- would you agree that opiates --
20 Schedule II opioids are highly addictive?
21 MS. FUMERTON: Objection; form.
22 A. Again, to your question, it's very specific.
23 It can be if not properly used. And so that
24 question is almost impossible to answer with just a
25 singular answer.

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1 Q. These highly addictive drugs have resulted
2 in thousands of deaths across the country?
3 MS. FUMERTON: Objection; form.
4 A. What --
5 Q. Do you agree that these pills have resulted
6 in thousands of deaths across the country?
7 MS. FUMERTON: Objection; form.
8 A. I don't have direct knowledge if it has. I
9 just know what I -- earlier when we talked about
10 reading different things, that's the only piece I
11 could say. I don't specifically know how many
12 people or anything else that have died from this.
13 Q. You talked earlier about optimizing the
14 processes; is that right?
15 MS. FUMERTON: Objection; form.
16 A. Yes.
17 Q. That's --
18 A. Continuous improvement.
19 Q. Continuous improvement. What metrics did
20 you look at to continuously improve this suspicious
21 order monitoring process for?
22 MS. FUMERTON: Objection; form.
23 A. I can't -- you know, when you talk about
24 continuous improvement, you're not just talking
25 about metrics. You're talking about just the way

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1 things are handled. So I'll give you a prime
2 example of what I looked at.
3 So phone calls, we discussed as a team how
4 long would phone calls to make to pharmacies, to
5 make sure that -- you know, what I want them doing
6 was spending time talking to the individuals, the
7 pharmacists, or others that could help with order
8 evaluation. What I didn't want them doing was
9 having to repeatedly call and stay on hold.
10 So we talked about process improvements on
11 how to do things like that. That's why I referred
12 to that earlier, those types of process
13 improvements.
14 Q. Process improvements that are aimed at --
15 that's more efficient, right? Less time on the
16 phone is more efficient for your company?
17 A. No. I don't think it's necessarily less
18 time on the phone. It's more value-added time.
19 It's time-adding value that they're discussing what
20 the topic at hand is and not trying to track someone
21 down. When I refer to process improvements, those
22 are the types of things I'm referring to.
23 Q. What are -- what would be another example of
24 a process improvement?
25 A. I know there's others, and I'm pretty

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1 confident there's probably some notes of others.
2 Just for the life of me, can't remember right now.
3 The phone was one. I can't think of any others
4 right now.
5 Q. Would it be an improvement if -- to your
6 system, if it flagged suspicious orders more
7 accurately?
8 MS. FUMERTON: Objection; form.
9 A. Can you explain what you mean by more
10 accurately?
11 Q. Well, for instance, Reddwerks flags an order
12 of interest, right, or flags on order of interest
13 and it goes through a whole process; is that
14 correct?
15 A. One more time.
16 Q. Reddwerks flags an order of interest,
17 correct?
18 A. Yes.
19 Q. That order of interest can go through a few
20 layers of review, correct?
21 A. Yes.
22 Q. It could go through one layer of review, or
23 it could go all the way to the end, correct?
24 A. Yes.
25 Q. And each time it goes farther along that

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1 line, more and more people review it; is that
2 correct?
3 A. Yes.
4 Q. And those people are spending their time
5 reviewing orders, correct?
6 A. Yes.
7 Q. And Walmart's paying them for reviewing the
8 time -- for reviewing those orders, correct?
9 MS. FUMERTON: Objection; form.
10 A. Yes.
11 Q. Would it be better to develop a system -- to
12 optimize a system whereby -- let me stop.
13 The -- some of those orders are determined
14 to not be suspicious and are shipped. Some of those
15 orders are determined to be suspicious and
16 presumably held. Correct?
17 MS. FUMERTON: Objection; form.
18 Q. Some orders are shipped, correct?
19 A. After they go through the evaluation
20 process.
21 Q. Correct.
22 A. Yes.
23 Q. And some orders are held after they go
24 through the evaluation process, correct?
25 A. Yes.

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1 Q. If you had a system in which it was more
2 efficient to tag the most likely to be determined to
3 be suspicious higher up in your process, that would
4 be more efficient, wouldn't it?
5 MS. FUMERTON: Objection; form.
6 A. If the -- this is more of a personal view.
7 So I don't think that -- at least from my focus of
8 this program wasn't the efficiency of the program.
9 It was more of the accuracy of the program.
10 Efficiency -- when we were talking about the
11 phone calls and you referred to time spent, that's
12 not what I was -- I wasn't looking to give them less
13 time to do a review. It was to give them the time
14 to actually spend where they needed to do the review
15 versus, again, picking up the phone and having to
16 call three times to reach someone.
17 Q. Did Reddwerks function on an algorithm?
18 MS. FUMERTON: Objection; form.
19 A. Parts of Reddwerks does.
20 Q. Did you have confidence in that algorithm?
21 MS. FUMERTON: Objection; form.
22 A. The parts of Reddwerks that does, yes.
23 Reddwerks is a well-renowned company.
24 Q. I'm asking about Reddwerks' algorithm as it
25 pertains to suspicious order monitoring process

<p style="text-align: right;">Page 258</p> <p>1 flow. The algorithm used in the Reddwerks system, 2 did you have confidence in that algorithm? 3 MS. FUMERTON: Objection; form. 4 A. Reddwerks was using the algorithm developed 5 by Mu Sigma. 6 Q. By Mu Sigma? 7 A. Unless I'm misunderstanding your question. 8 Q. No. That's new information. 9 A. Okay. 10 Q. So Mu Sigma developed the algorithm that's 11 used by Reddwerks? 12 MS. FUMERTON: Objection; form. 13 Q. That's used in Reddwerks? 14 MS. FUMERTON: Objection; form. 15 A. Okay. I misunderstood what you were asking 16 earlier. The algorithm that I was referring to 17 earlier are algorithms that are for other things in 18 Reddwerks. What the thresholds are based off 19 algorithms was developed by Mu Sigma. 20 Q. Did you -- do you have confidence -- did you 21 have confidence, during your role, in Mu Sigma's 22 threshold algorithm? 23 MS. FUMERTON: Objection; form. 24 A. Based on everything while I was in that 25 role, I'd say yes.</p>	<p style="text-align: right;">Page 260</p> <p>1 is that right? 2 A. Yes, that's correct. 3 Q. When was that? 4 A. It was either 2015 or 2016. I don't recall 5 exactly when. 6 Q. And where did -- where does Buzzeo fit on 7 the process flow? 8 MS. FUMERTON: Objection; form. 9 A. This is an area I don't have a great deal of 10 detail on because it was being handled by the 11 compliance group. My general understanding is that 12 Buzzeo would sit on top of everything. So if you 13 have pharmacies making orders, Buzzeo, and then you 14 have the logistics systems. 15 Q. Is the logistics systems the process we've 16 already been talking about? 17 A. Yes. 18 Q. Okay. So with the addition of Buzzeo, did 19 anything in the process flow change? 20 MS. FUMERTON: Objection; form. 21 A. Process flow change? Going back to that 22 comment that I made earlier, I know there were a few 23 things that we fine-tuned. You know, the calendar 24 date, that was the example, the lack of clarity on 25 business day or calendar day. The 6045 worked</p>
<p style="text-align: right;">Page 259</p> <p>1 Q. After you left that role, did you continue 2 to have confidence in that algorithm? 3 MS. FUMERTON: Objection; form. 4 A. State the question again. 5 Q. After you left the role, do you continue to 6 have confidence in the algorithm of Mu Sigma? 7 MS. FUMERTON: Objection; form. 8 A. Going -- yeah. If that algorithm was still 9 being used today, then my answer would have been 10 yes. 11 Q. Is it flagging the right number of orders, 12 in your opinion? 13 MS. FUMERTON: Objection; form. 14 A. Based on the experiences I had in this job 15 in some of these reviews, yeah, I felt so. 16 Q. Did you ever question the algorithm while 17 you were in your role? 18 MS. FUMERTON: Objection; form. 19 A. I always question if you could improve 20 things. I mean, I don't think that was your 21 question, though, earlier to me. I think your 22 question was if I -- unless I misunderstood your 23 question. 24 Q. At some point in time, Walmart introduced 25 Buzzeo into the suspicious order monitoring process;</p>	<p style="text-align: right;">Page 261</p> <p>1 Monday through Friday. 2 The -- so small things like that, yes, we 3 made process improvements. Just today, if I had to 4 list every one, I don't -- I couldn't do that today. 5 Q. Let me ask it differently. Structurally, 6 the -- when we go from one to two to three and so on 7 and so forth, that stays the same, and Buzzeo is 8 placed as a filter before this process. Is that a 9 fair statement? 10 MS. FUMERTON: Objection; form. 11 A. We had not gotten to that point yet when I 12 was exiting out of the role. Buzzeo was still being 13 determined on how it was going to be used. I don't 14 feel we were at that point when I left that role. 15 Q. Was it in its pilot phase at that point? 16 MS. FUMERTON: Objection; form. 17 A. Was it in the pilot phase? I know the 18 contract was being signed. I don't know if anything 19 else was being done. 20 Q. Did you ever review suspicious order 21 monitoring alerts after the rollout of Buzzeo? 22 MS. FUMERTON: Objection; form. 23 A. I don't know if Buzzeo rolled out. So are 24 you stating to me that Buzzeo did roll out? 25 MR. INNES: Let's just mark this. I'm going</p>

<p style="text-align: right;">Page 262</p> <p>1 to mark this as Plaintiffs' 10. 2 (Ducote Exhibit 10 was marked for 3 identification.) 4 MR. INNES: It's a quick one-page e-mail. 5 Could I hold one of those? I'm sorry. Tara, I 6 think this is one I didn't make enough copies of. 7 MS. FUMERTON: That's okay. 8 MR. INNES: I'll have to take it back. 9 MS. FUMERTON: That's okay. Yes. I haven't 10 written on mine yet. 11 MR. INNES: Thank you. 12 MS. FUMERTON: Thanks. 13 THE WITNESS: Up until you -- 14 MS. FUMERTON: Wait for a question. 15 THE WITNESS: He did ask me a question. 16 Q. I didn't ask you a question. 17 A. Oh, I thought the previous one -- okay. 18 Sorry. 19 Q. So this is Plaintiff 10. It's an e-mail 20 from Dena McClamroch -- I hope I pronounced that 21 correctly -- to Chad Ducote on August 9th, 2017. 22 It's actually an e-mail chain. It begins with Bates 23 Number 7345. 24 Mr. Ducote, on Wednesday August 9th, you 25 wrote to Ms. Hodges. Who is Ms. Hodges?</p>	<p style="text-align: right;">Page 264</p> <p>1 And from what I -- first of all, I don't 2 know if Buzzeo actually rolled out fully. Still, 3 going back to your previous question, I don't 4 remember a lot about the Buzzeo. That was during 5 that transition. 6 But from what I recall about false 7 positives, is that evaluations that were done that 8 showed no issue, but the system kept flagging them. 9 And potentially I had concerns that the algorithms 10 that they were using, there were some issues with 11 it, to double-check it. 12 Q. So in -- 13 A. And again, that's my opinion, just to be 14 sure. 15 Q. To be clear, my questions on this particular 16 exhibit are limited to C2 opioids. So are you -- 17 you mentioned algorithms just now. You write in 18 your e-mail "that algorithm," singular. 19 Are you aware of other algorithms used by 20 Buzzeo? 21 A. No. 22 MS. FUMERTON: Objection; form. 23 A. No. 24 THE WITNESS: Sorry. 25 A. No.</p>
<p style="text-align: right;">Page 263</p> <p>1 A. Ms. Hodges took my place in that role. 2 Q. She was -- she was your replacement? 3 A. Yes. 4 Q. Okay. So Tim Harris, Chad Ducote, Debbie 5 Hodges? 6 A. Yes. 7 Q. You write to Debbie: They had trouble 8 getting me off the SOM alerts due to settings in 9 Archer. Basically in a nutshell, I will get them. 10 I noticed they spiked a lot this week with the 11 rollout of Buzzeo. Ultimately it's your call what 12 to do, yet I would push back on the algorithm. It 13 is off in my opinion and kicking off way too many 14 alerts that are false positives. 15 So why is it your opinion that the Buzzeo 16 algorithm is kicking off way too many alerts that 17 are false positives? 18 MS. FUMERTON: Objection; form. 19 A. That was -- when you talk about a hectic 20 period, that August 9th, that time period transition 21 to -- so I cannot recall if I talked to Dena or if I 22 talked to someone else in that area, because I was 23 getting all these e-mails about what was going on, 24 because it was like, hey, all the sudden I get all 25 these e-mails. I hadn't been getting these.</p>	<p style="text-align: right;">Page 265</p> <p>1 Q. Have you -- have you seen the algorithm used 2 by Buzzeo? 3 A. No, not that I recall. 4 Q. Have you been involved in any of the 5 discussions leading up to the development of the 6 algorithm by Buzzeo? 7 A. As Buzzeo, the contract, was being signed? 8 I do recall being at a meeting where it was 9 discussed about how Buzzeo looked at things. As far 10 as the algorithm specifically being discussed, I 11 wasn't sure -- I'm using algorithm as a generic 12 term, that whatever is driving the alerts, if it's 13 algorithm -- maybe it's not an algorithm, I would 14 assume it is -- that -- does it have the right 15 inputs. 16 Because it could be something as simple as 17 Buzzeo might have been looking -- I don't mean to 18 get off on a tangent here, but since the question 19 was asked, their algorithm may have been set up, but 20 was in quantities of bottles at a certain size that 21 we didn't carry or it was based on pills. 22 I didn't know enough about it, but it just 23 seemed to me that if it was started kicking off all 24 these false positives, something needed to be looked 25 at in it.</p>

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1 Q. Is it -- is it possible that these weren't
2 false positives, and the spikes were -- you've
3 optimized your suspicious order monitoring process
4 now, and you're getting a more accurate display of
5 suspicious orders, orders of interest?
6 MS. FUMERTON: Objection; form.
7 A. Again, based on the conversation -- I don't
8 recall exactly who it was -- I would have -- I had
9 confidence then, I still would have confidence those
10 team members had done a thorough evaluation. If
11 they were not finding that there was any issues with
12 those orders, I would have confidence in what they
13 were doing.
14 Q. I'm sorry. So you mentioned conversations.
15 Did -- who did you have conversations with regarding
16 the Buzzeo -- the results -- suspicious order alerts
17 from the Buzzeo platform?
18 MS. FUMERTON: Objection; form.
19 A. This was over a year ago. I'm guessing. I
20 think it was Dena. I don't remember exactly,
21 though.
22 Q. So Debbie is your replacement. That's --
23 A. Yes.
24 Q. -- what you testified?
25 A. That's correct.

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1 Q. And, you know, a critical function of
2 your -- the role that you -- that Debbie just took
3 over is the execution of the suspicious order
4 monitoring process; is that correct?
5 MS. FUMERTON: Objection; form.
6 A. Yes.
7 Q. And the system is set up, as I understand
8 it, where Buzzeo sits on top, in your words, and
9 then the suspicious order monitoring process flow is
10 maintained below that; is that correct?
11 MS. FUMERTON: Objection; form.
12 A. Just to clarify my comments earlier, that's
13 what I think. I still don't know enough about
14 Buzzeo. I know in this -- on this e-mail, it says
15 with the rollout Buzzeo. If you look at when I left
16 the other job, which is June of 2017, this e-mail is
17 in August. So Buzzeo was rolled out after I left
18 the role.
19 Q. A critical function of the suspicious order
20 monitoring process is to identify orders of
21 interest; is that correct?
22 MS. FUMERTON: Object --
23 A. Yes. That was the same question, right, you
24 were asking me? Or is that a different question,
25 and I'm misunderstanding it?

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1 Q. A critical function of the suspicious order
2 monitoring process is to identify orders of
3 interest; is that correct?
4 MS. FUMERTON: Objection; form.
5 A. Yes.
6 Q. And the suspicious order monitoring
7 process -- the SOM that's in place August 9th of
8 2017 is identifying suspicious orders; is that
9 right?
10 MS. FUMERTON: Objection; form.
11 A. I don't think the way you're wording it is
12 correct. Again, it's --
13 Q. Well, what's it identifying?
14 A. Identify orders of interest is what we just
15 talked about.
16 Q. So Buzzeo and the -- and the SOM,
17 incorporating Buzzeo, is identifying suspicious
18 orders?
19 MS. FUMERTON: Objection; form.
20 Q. Orders of interest?
21 A. Orders of interest --
22 Q. It's getting late.
23 A. -- just to be clear.
24 Q. Orders of interest?
25 A. Yes.

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1 Q. And you're pushing back on that algorithm;
2 is that right?
3 MS. FUMERTON: Objection; form.
4 A. No, I wouldn't say I'm pushing back.
5 Q. Strike that.
6 You're directing her to push back on it; is
7 that right?
8 MS. FUMERTON: Objection; form.
9 A. What I'm telling her, that she does need to
10 have them -- the way I word stuff maybe is not the
11 way you interpret it. I am telling her that she
12 should have them relook just to make sure the
13 conversions and everything else are correct,
14 because, again, I don't know a lot about it.
15 But I do question, if she's new in the role,
16 that she understood everything with it. I
17 trained -- I went through and did some training with
18 her, but I'm not sure we went to this level of
19 detail during that time period.
20 Q. But you don't --
21 A. Go ahead.
22 Q. But based on this e-mail, as you sit here
23 today, you didn't think that it was flagging too few
24 orders; is that correct?
25 A. State the question again.

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1 Q. Did you think that Buzzeo was flagging too
2 many or too few orders of interest?
3 MS. FUMERTON: Objection; form.
4 A. What I noticed was, the week it rolled out,
5 the alerts from Archer became a lot. And I really
6 felt that if Debbie wasn't involved, she needed to
7 be involved. And it was a way to prompt her to make
8 sure she was involved. I can't speak on Debbie's
9 behalf. I wasn't there. Maybe she was, and
10 maybe --
11 Q. Was that --
12 A. -- she understood it.
13 Q. Was that your role, to advise Debbie as to
14 how to do her job at that point?
15 MS. FUMERTON: Objection; form.
16 A. Probably not my role to advise her how to do
17 it, but I do think -- I would hope that anyone that
18 takes anyone else's role --
19 Q. Is it a fair statement that you didn't have
20 confidence that the Buzzeo -- that the addition of
21 Buzzeo, the SOM was identifying the correct
22 orders --
23 MS. FUMERTON: Objection --
24 Q. -- for further review?
25 MS. FUMERTON: Objection; form.

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1 A. I really didn't know enough about Buzzeo.
2 That's partially part of the e-mail. I mean, if I
3 probably knew more about Buzzeo, then probably could
4 have answered my own question. But I really didn't
5 know a lot about it.
6 Q. Your assumption that the -- there's too many
7 false positives is based on the assumption that the
8 prior suspicious order monitoring process is
9 flagging the right orders; isn't that right?
10 MS. FUMERTON: Objection; form.
11 A. I think it was based on more than that.
12 Q. Well, you're comparing the number of hits by
13 the -- your -- with your experience in your
14 suspicious order monitoring process, with the hits
15 that are being found in the new process; isn't that
16 right?
17 A. Yes.
18 Q. Maybe the new process is better. Is that a
19 possibility?
20 MS. FUMERTON: Objection; form.
21 A. It is a possibility, but it's a possibility
22 it could be worse. And I think both sides need to
23 be thoroughly reviewed and evaluated.
24 Q. It could be worse meaning there could be
25 more orders that should be flagged?

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1 A. No.
2 MS. FUMERTON: Objection; form.
3 A. That's not what I meant.
4 Q. I want to go back to the process and try it
5 one more time. Again, we're going to go around the
6 horn with another set of questions and then I
7 think --
8 MS. FUMERTON: (Inaudible.)
9 Q. The -- when we get to the first level and
10 you determined that -- is it possible to ship part
11 of an order at the first level and hold another part
12 of the order for further review?
13 MS. FUMERTON: Objection; form.
14 A. That's a fine distinction on what you mean
15 by order. Can you define what an order means?
16 Q. Pharmacy places an order to the home -- to
17 Walmart, right?
18 A. Yes, they do. They place an order.
19 Q. And that order goes through -- at this time,
20 during your tenure in the position, an order of
21 interest for Schedule II opioids is flagged on a --
22 on a threshold basis by Reddwerks; isn't that right?
23 A. Yes.
24 Q. That order that has been flagged as an order
25 of interest or identified as an order of interest by

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1 the Reddwerks system is evaluated at the first level
2 by a distribution center?
3 A. Yes.
4 Q. Can a distribution center -- say, for
5 example, it gets an order of 20 -- say we think 10
6 is fine to ship, we're going to hold the other 10
7 back, can they do that?
8 A. In this process that was rolled out, no.
9 Q. Yes.
10 A. The answer is no.
11 Q. Same question at the second level: Can the
12 Logistics Team clear a partial order and hold a
13 partial order?
14 A. Just to make sure I'm stating your question,
15 so of an order of 20, can they say, hey, I'm going
16 to hold 10 back, but I'm going to let you ship 10
17 until I evaluate this other 10?
18 Q. Yes.
19 A. No.
20 Q. Same hypothetical at the third level.
21 A. The way I understand your question, that
22 would, again, be the same no process during this
23 time period.
24 Q. You'd either have to hold the -- hold the
25 entire order or ship that entire order?

<p style="text-align: right;">Page 274</p> <p>1 A. That particular item, yes.</p> <p>2 Q. Okay. Does that hold true at Step 5, where</p> <p>3 the Logistics and Compliance Teams are evaluating</p> <p>4 the second and third level reviews?</p> <p>5 A. I'm trying to remember about the remediation</p> <p>6 program. If an -- could you reask your original</p> <p>7 question to make sure I'm answering it correctly?</p> <p>8 Q. So I'm now -- so we're all at the same</p> <p>9 place, they've determined the order is suspicious,</p> <p>10 logistics and compliance. Let's say there was an</p> <p>11 order of 20 that made it to that level.</p> <p>12 A. Okay.</p> <p>13 Q. Could that Logistics/Compliance Team fulfill</p> <p>14 10 and hold and identify the other 10 as a</p> <p>15 suspicious order?</p> <p>16 A. No.</p> <p>17 Q. They'd have to identify the entire order as</p> <p>18 suspicious or clear the order; is that right?</p> <p>19 A. It would have to be identified as suspicious</p> <p>20 to not -- or clear -- yes. The remediation plan is</p> <p>21 I'm trying to remember. There seems to be something</p> <p>22 with the remediation plan that I cannot recall right</p> <p>23 now.</p> <p>24 Q. What is a remediation plan?</p> <p>25 A. Remediation plan -- and again, this was</p>	<p style="text-align: right;">Page 276</p> <p>1 cut and ship, to make sure I understand fully?</p> <p>2 Q. Are you familiar with a policy whereby if an</p> <p>3 order came in for a particular opioid that was over</p> <p>4 20 bottles, that the distribution center could</p> <p>5 reform that order to 20 and then ship it?</p> <p>6 MS. FUMERTON: Objection; form.</p> <p>7 A. When I first began the role, I was aware --</p> <p>8 I did -- I was made aware that that was some</p> <p>9 previous practices that existed.</p> <p>10 Q. And was it your belief that that policy was</p> <p>11 in alignment with the DEA's policies at the time?</p> <p>12 MS. FUMERTON: Objection; form.</p> <p>13 A. I know we've already discussed this. I'm</p> <p>14 not an attorney. But anything that we do, we have</p> <p>15 full confidence that it is what the guidance is of</p> <p>16 the DEA or whoever else provides that guidance.</p> <p>17 Q. And what do you base that confidence on?</p> <p>18 A. Just my experience at Walmart. I mean,</p> <p>19 I've -- again, I know that we've gone through it</p> <p>20 20-plus years. We've gone through 20-plus years</p> <p>21 where I've seen a relentless focus on complying with</p> <p>22 the law and resources put into our compliance</p> <p>23 programs, ethics programs, and everything else.</p> <p>24 Q. So your testimony is at every step of the</p> <p>25 way on this chain during this time period when this</p>
<p style="text-align: right;">Page 275</p> <p>1 administered by the compliance division. My</p> <p>2 understanding was if an order from a pharmacy is</p> <p>3 identified as suspicious, there was a remediation</p> <p>4 plan to address that in the pharmacy. I just can't</p> <p>5 remember the finer points of it. I was not very</p> <p>6 involved in the remediation plans. That was handled</p> <p>7 through that department.</p> <p>8 Q. Is it fair to say that's outside your</p> <p>9 purview, and if we wanted to find out information</p> <p>10 about that, we'd want to talk to someone in the</p> <p>11 compliance department?</p> <p>12 A. For the operations of the remediation plan,</p> <p>13 yes.</p> <p>14 Q. What logistical elements are there to the</p> <p>15 remediation plan?</p> <p>16 A. Well, I see your question. I'm sorry. I</p> <p>17 misanswered that. There are no logistics components</p> <p>18 to it.</p> <p>19 Q. Okay. Are you familiar with a cut and ship</p> <p>20 policy at the distribution center?</p> <p>21 MS. FUMERTON: Objection to form.</p> <p>22 A. During this time period?</p> <p>23 Q. Any time period as it relates to opioids.</p> <p>24 MS. FUMERTON: Objection; form.</p> <p>25 A. What do you define -- what do you mean by</p>	<p style="text-align: right;">Page 277</p> <p>1 was implemented, an order was binary. An order was</p> <p>2 either shipped or it was held for further review.</p> <p>3 Is that right?</p> <p>4 MS. FUMERTON: Objection; form.</p> <p>5 A. An order was either shipped or held for</p> <p>6 review? We discussed earlier about absolutes. Is</p> <p>7 there an aberration where something happened? There</p> <p>8 potentially is. I can't recall one right now.</p> <p>9 Q. Can you recall that aberration?</p> <p>10 A. You're asking me to think back through three</p> <p>11 years of -- if any issue ever came up?</p> <p>12 Q. In fact, I'm asking you what the policy was</p> <p>13 here in each step.</p> <p>14 A. From the best of my recollection, yes, what</p> <p>15 I answered before is what the policy was.</p> <p>16 Q. Is your testimony that although this was the</p> <p>17 policy, someone may have cut and shipped -- cut and</p> <p>18 shipped a quantity at some point?</p> <p>19 A. It possibly could have happened.</p> <p>20 MS. FUMERTON: Objection; form.</p> <p>21 A. I just can't remember right now if it ever</p> <p>22 did happen. Is it possible? Yes, it's possible,</p> <p>23 but it would have been a mistake or it would have</p> <p>24 been something addressed as soon as it was</p> <p>25 discovered.</p>

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1 Q. What was the reason for not allowing partial
2 orders to ship?
3 A. Well, what do you mean by that?
4 Q. Well, at some level there is a -- you've
5 described there's a -- at each level here you've
6 described a work flow or a choice, right? It either
7 meets a criteria and can be put back through -- or
8 it doesn't meet that criteria and it goes down --
9 further down the chain.
10 A. Okay.
11 Q. I suppose there's a third option, which
12 could be cut the order to some -- to reform the
13 order to a size that Walmart was comfortable to ship
14 and hold back the rest of the product. Why wasn't
15 that implemented?
16 MS. FUMERTON: Objection; form.
17 A. I wouldn't be able to answer that. I'm not
18 sure. In the meetings I was part of when I joined
19 this role, it was not something we discussed. I
20 mean, the roadmap that you showed me earlier and
21 where the project was going was what the focus was
22 while I was in that role. That topic didn't come
23 up, that I recall, in that context of how you're
24 asking me the question.
25 Q. Are you familiar with any other roadmap than

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1 the one we're looking at today?
2 Is there -- a better question is: Is there
3 anything on here in terms of the work flow that we
4 haven't covered that you're aware of?
5 MS. FUMERTON: Objection; form.
6 A. Not that I recall, no.
7 MR. INNES: We can go off the record.
8 THE VIDEOGRAPHER: Going off record, the
9 time is 3:26.
10 (Recess from 3:26 p.m. until 3:35 p.m.)
11 THE VIDEOGRAPHER: Going back on record,
12 beginning of Media File 9. The time is 3:35.
13 BY MR. INNES:
14 Q. Okay. Mr. Ducote, we're back. We're going
15 to keep going through the process flowchart one more
16 time. I do not think I have very many questions
17 left, if that helps you at all.
18 The -- at any point on this flow could an
19 evaluation team, either at the first level, second
20 level, third level, or at the joint level, simply
21 deny an order?
22 MS. FUMERTON: Objection; form.
23 A. Let me walk through the steps. The only
24 step would have been at the joint box, from what I
25 recall, and it would have been reported as a

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1 suspicious order.
2 Q. So at the first, second, and third levels,
3 those folks were not given the discretion to reduce
4 an order to zero; is that correct?
5 A. During this time period, my belief is, no,
6 they were not given -- did I say that right? They
7 did not have the discretion to do that.
8 Q. Any other time period that you're aware of
9 that they did have that discretion?
10 A. Not that --
11 MS. FUMERTON: Objection; form.
12 A. -- not that I'm aware of to do the zero,
13 that I recall.
14 Q. What do you -- what is your definition of a
15 false positive?
16 A. It's a term -- I'm trying to think of a
17 simple definition, not get off on a tangent on that
18 one, but basically something that, after
19 investigation, turns out to be a nonissue. I cannot
20 recall exactly where I first heard that term, but
21 there was something -- I've heard that term before,
22 and that's something I've used.
23 Q. Okay. Let's use -- let's use that
24 definition, after an investigation it turns out to
25 be a nonissue. So a false positive would be

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1 anything that ships; is that right?
2 MS. FUMERTON: Objection; form.
3 Q. According to your definition?
4 MS. FUMERTON: Objection; form.
5 A. I'm not really sure how to answer that
6 question because I don't -- restate what you said --
7 Q. Sure.
8 A. -- to make sure I fully understand what
9 you're asking.
10 Q. Your definition of a false positive is
11 something that, after investigation, turns out to be
12 a nonissue.
13 My question is if an order is flagged as an
14 order of interest, but ultimately ships, that will
15 be a false positive, according to your definition,
16 would it not?
17 MS. FUMERTON: Objection; form.
18 A. Could be.
19 Q. Who designed the suspicious order monitoring
20 process flow?
21 MS. FUMERTON: Objection; form.
22 A. This process was designed -- going back to
23 that cross-functional team that I talked to you
24 about earlier, it was designed by that group.
25 Q. And help me out. Who was part of that

<p style="text-align: right;">Page 282</p> <p>1 group? Who were the folks in that group?</p> <p>2 A. Going back to the same thing earlier, that's</p> <p>3 some of the privilege. There were -- there were --</p> <p>4 legal that was involved in it, but other</p> <p>5 co-components.</p> <p>6 MS. FUMERTON: Yeah. I think you can answer</p> <p>7 his question to the extent that it's not</p> <p>8 revealing communications with legal, but you can</p> <p>9 say that legal was a -- if that's what your</p> <p>10 testimony is, if legal was a component, you can</p> <p>11 say legal and the other folks who were involved.</p> <p>12 THE WITNESS: All right.</p> <p>13 A. This flow, in general, was designed when I</p> <p>14 was coming to the role -- the general framework had</p> <p>15 been designed in what I was -- what I remember being</p> <p>16 told, it was legal, it was compliance, and legal</p> <p>17 being internal and external. Logistics did have a</p> <p>18 part in it. I do recall being told that pharmacy</p> <p>19 operations -- I don't know what part they had. I</p> <p>20 just recall being told about pharmacy operations.</p> <p>21 And there's someone else I'm missing right</p> <p>22 now. There's someone else. I don't remember who</p> <p>23 it -- I think it was -- oh, Global Investigations.</p> <p>24 That's who it was.</p> <p>25 Q. Carving out the folks from legal for the</p>	<p style="text-align: right;">Page 284</p> <p>1 A. Yes.</p> <p>2 Q. A big part of your job, in fact?</p> <p>3 MS. FUMERTON: Objection; form.</p> <p>4 A. It was a -- it was -- yes, it was a part of</p> <p>5 my job.</p> <p>6 Q. Did you -- and you continually optimized the</p> <p>7 program; is that right?</p> <p>8 MS. FUMERTON: Objection; form.</p> <p>9 A. Going back to the discussion earlier, yes.</p> <p>10 Q. And through those efforts to optimize the</p> <p>11 program, did you have conversations with folks in</p> <p>12 these different departments that had a hand in</p> <p>13 designing the original architecture?</p> <p>14 A. You know, I've been misunderstanding your</p> <p>15 question about that probably for the past two hours.</p> <p>16 Finally it's registered on me. When you say about</p> <p>17 optimize, when I'm talking about optimize, I am</p> <p>18 discussing the -- more the execution of the program.</p> <p>19 When you're talking about optimize, I think you're</p> <p>20 talking more of a strategy behind the program, and I</p> <p>21 think that's -- it's a miscommunication potentially.</p> <p>22 Q. Fair point. I don't think we've been</p> <p>23 talking past each other. I'm talking about</p> <p>24 optimization from a logistics standpoint of the</p> <p>25 suspicious order monitoring process. Did you have</p>
<p style="text-align: right;">Page 283</p> <p>1 moment --</p> <p>2 A. Uh-huh.</p> <p>3 Q. -- who -- do you remember the individuals in</p> <p>4 each of those categories, compliance, logistics,</p> <p>5 pharmacy, and global investigations?</p> <p>6 MS. FUMERTON: Objection; form.</p> <p>7 A. I'd be speculating. Just because I've</p> <p>8 worked with those individuals in different time</p> <p>9 periods, I may be making an assumption that they</p> <p>10 were part of it, but simply just because I've worked</p> <p>11 with them for a year or two years.</p> <p>12 The only one that I know definitively that I</p> <p>13 remember exactly the name was Greg Beam that was</p> <p>14 mentioned.</p> <p>15 Q. And I'm sorry, which of these departments</p> <p>16 was Mr. Beam?</p> <p>17 A. Global Investigations. And to the degree he</p> <p>18 was involved, I mean, again, this is hearsay someone</p> <p>19 is telling me, or secondhand information. I don't</p> <p>20 know to what degree he was involved. I just</p> <p>21 remember the name being discussed.</p> <p>22 Q. Well, I think we've firmly established that</p> <p>23 the suspicious order monitoring process -- the</p> <p>24 suspicious order monitoring in general was a part --</p> <p>25 a part of your job; is that correct?</p>	<p style="text-align: right;">Page 285</p> <p>1 conversations with folks in -- at least stakeholders</p> <p>2 in the process over the course of your tenure?</p> <p>3 MS. FUMERTON: Objection; form.</p> <p>4 A. When you define the logistics portion of it,</p> <p>5 what specific portions are you talking about?</p> <p>6 Q. You're in charge of logistics. Explain to</p> <p>7 me what part of logistics -- what pieces of this</p> <p>8 lend themselves to logistics and to your expertise.</p> <p>9 MS. FUMERTON: Objection; form.</p> <p>10 A. And state the question one more time.</p> <p>11 Q. Which parts of the suspicious order</p> <p>12 monitoring process flow fall within the purview of</p> <p>13 logistics?</p> <p>14 A. So the first part as far as the Reddwerks</p> <p>15 system maintaining the overall system, the DC</p> <p>16 evaluation piece, the order, second level order</p> <p>17 evaluation, and then a joint of the other one, and</p> <p>18 again, it's execution of each of those items on</p> <p>19 there.</p> <p>20 Q. Execution of each of the items meaning</p> <p>21 all -- all points on the flow?</p> <p>22 MS. FUMERTON: Objection; form.</p> <p>23 A. It means -- let's use the third box, for</p> <p>24 example. Conducting second level order evaluations,</p> <p>25 that was a logistics function. Is that the</p>

<p style="text-align: right;">Page 286</p> <p>1 question?</p> <p>2 Q. So it's your testimony that logistics has a</p> <p>3 role in the execution of Box 1, correct?</p> <p>4 A. Yes.</p> <p>5 Q. Same for Box 2?</p> <p>6 A. Yes.</p> <p>7 Q. Same for Box 3?</p> <p>8 A. Yes.</p> <p>9 Q. Same for Box 4?</p> <p>10 A. Yes.</p> <p>11 Q. I'm sorry, 5, Box 5?</p> <p>12 A. Well, it's -- I was counting, 1, 2, 3, 4.</p> <p>13 Okay.</p> <p>14 MS. FUMERTON: Could we just --</p> <p>15 Q. Box 5 saying determine if order is</p> <p>16 suspicious, logistics and compliance, correct?</p> <p>17 A. Yes.</p> <p>18 Q. You did not have a role in third level order</p> <p>19 evaluation compliance?</p> <p>20 A. Yes.</p> <p>21 Q. And you had a role in the reporting to the</p> <p>22 appropriate agencies for -- is that correct?</p> <p>23 MS. FUMERTON: Objection; form.</p> <p>24 A. We did not report to the agencies. That was</p> <p>25 handled by compliance.</p>	<p style="text-align: right;">Page 288</p> <p>1 different words. How -- when you say involvement,</p> <p>2 define to me what you mean by that, because I want</p> <p>3 to be clear that if the question is did I own</p> <p>4 reporting to the agencies, the answer is no. I feel</p> <p>5 like I'm not being clear with the answer.</p> <p>6 Q. Did you play a role in any -- did logistics</p> <p>7 play a role in that part of the process?</p> <p>8 MS. FUMERTON: Objection; form.</p> <p>9 A. The way that that box is written, the answer</p> <p>10 would be no.</p> <p>11 Q. Which box are you referring to?</p> <p>12 A. If you're saying specifically to report to</p> <p>13 appropriate agencies, we did not file the reports to</p> <p>14 the appropriate agencies.</p> <p>15 Q. But the decision to report to those</p> <p>16 agencies, you were intimately involved; is that</p> <p>17 correct?</p> <p>18 MS. FUMERTON: Objection; form.</p> <p>19 A. We were involved in that decision.</p> <p>20 Q. Okay. Which one -- which of these boxes on</p> <p>21 the process flow did you have control to make a</p> <p>22 change or -- to make a change?</p> <p>23 MS. FUMERTON: Objection; form.</p> <p>24 A. And to clarify, a change wasn't just made</p> <p>25 singularly by a decision that I would make. It --</p>
<p style="text-align: right;">Page 287</p> <p>1 Q. The actual physical report was handled -- is</p> <p>2 handled by compliance, correct?</p> <p>3 A. Yes.</p> <p>4 Q. But you -- your recommendation as to what</p> <p>5 goes into that report was involved, correct?</p> <p>6 MS. FUMERTON: Objection; form.</p> <p>7 A. The recommendation to report, yes.</p> <p>8 Q. Okay. So remediation plan, compliance, did</p> <p>9 logistics play a role in that?</p> <p>10 A. The only role that logistics played was if</p> <p>11 the remediation program had anything to do with</p> <p>12 changing an order threshold, then potentially, yes,</p> <p>13 that would impact us, but that -- all that was</p> <p>14 handled by the compliance department.</p> <p>15 Q. Okay. So by my count, your testimony is</p> <p>16 that you were involved in -- the Logistics Team was</p> <p>17 involved in every single box except for third level</p> <p>18 order evaluation compliance; is that correct?</p> <p>19 MS. FUMERTON: Objection; form.</p> <p>20 A. I -- I understand what you're saying. I</p> <p>21 don't fully agree with what you're saying, because</p> <p>22 to me, involvement -- does involvement mean</p> <p>23 decision-making? Does involvement mean actually</p> <p>24 doing the work?</p> <p>25 The pieces that -- maybe ownership is a</p>	<p style="text-align: right;">Page 289</p> <p>1 this -- there was a broader work stream that was</p> <p>2 involved in changes that would be made to this, so</p> <p>3 just to make sure I'm clear in answering that. But</p> <p>4 I could have had some impact on -- could have had</p> <p>5 impact on the Reddwerks system.</p> <p>6 Restate your question, because I'm</p> <p>7 struggling with answering it for the second and</p> <p>8 first level order evaluation.</p> <p>9 Q. Mr. Ducote, I think the question stands.</p> <p>10 You've begun to answer it, so I take it that you</p> <p>11 understand my question.</p> <p>12 A. I understood it for the first part, when you</p> <p>13 said -- let me reread it, then.</p> <p>14 I think the thing I'm struggling with your</p> <p>15 question, I have control to make. The control</p> <p>16 refers to me, is that I can make the change without</p> <p>17 consulting others. And that's where I was trying to</p> <p>18 distinguish in what your question was. So is</p> <p>19 control totally I'm the only one that can make that</p> <p>20 change, or is it a change that others can have input</p> <p>21 on?</p> <p>22 Q. Take it in parts. Answer the first part,</p> <p>23 and then answer the second one.</p> <p>24 A. Okay. I would say on here, as far as</p> <p>25 control that I singularly would have -- would have</p>

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1 to just make decisions carte blanche, no. Every
 2 decision that's on here would have involved the
 3 cross-functional team that I referred to earlier.
 4 To a certain degree, maybe they were more
 5 input. Maybe their decision piece was just
 6 informational. Maybe they were accountable for it.
 7 It means different degrees of it, but there could
 8 have been a part.
 9 Q. Thank you for that. So it's your testimony
 10 that logistics has at least a part or a role to play
 11 in each one of these nodes or boxes on this path but
 12 for third level order evaluation compliance?
 13 MS. FUMERTON: Objection; form.
 14 A. Yes. I -- the remediation one, I'm partial
 15 on that one. So I don't think I had input into the
 16 remediation plan, per se, but if the remediation
 17 plan changed something -- I guess maybe -- that's
 18 the one I'm struggling with in answering this
 19 question. The confines of the remediation program
 20 were determined by the compliance department.
 21 Q. On the last day that you left the job, what
 22 improvements needed to be made to the suspicious
 23 order monitoring process flow, in your opinion?
 24 MS. FUMERTON: Objection; form.
 25 A. In my opinion, I really -- which Buzzeo was

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1 the decision that was being looked at. I would have
 2 wanted to make sure that we did a thorough
 3 evaluation of all the different companies out there
 4 that offered different products. I'm not sure
 5 besides Buzzeo that was looked at, but that would
 6 have probably been something that I would suggest to
 7 do a pretty thorough review overall of it.
 8 Q. Would it be your desire to do that so that
 9 the suspicious order monitoring process would cease
 10 to catch false positives?
 11 MS. FUMERTON: Objection; form.
 12 A. No, that's not what I stated. Reddwerks --
 13 which sounded like earlier where I was familiar with
 14 Reddwerks. Reddwerks is a warehouse management
 15 system, so Reddwerks is really designed more
 16 about -- around supply chain processes. And it does
 17 a great job for what we're doing.
 18 But could there have been other -- others
 19 out there that would have done as well or even
 20 better jobs? Buzzeo, again, it was towards the end.
 21 I don't know a lot of detail about Buzzeo, but
 22 that's something I would have wanted to look at
 23 again, because their contract -- Reddwerks' contract
 24 comes up for renewal every few years. And before we
 25 would automatically carte blanche just renew it, I

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1 would have wanted to check more. So that would have
 2 been one thing I would have wanted to do.
 3 Q. You wanted to check for other vendors? Is
 4 that what you mean by check more?
 5 A. Yes.
 6 MR. INNES: I have no further questions at
 7 the moment. Thank you for your time. I
 8 think you have -- it's --
 9 MS. FUMERTON: We can just go right now. I
 10 mean, this will be five minutes. It won't be
 11 that long.
 12 MR. INNES: What we did yesterday is we
 13 flipped, so you're on camera. It does not matter
 14 to me.
 15 MS. FUMERTON: I didn't realize that we were
 16 on camera.
 17 MR. INNES: We are not. I am.
 18 MS. FUMERTON: No, well, that's what I
 19 meant. I didn't know the questioner was. It's
 20 up to you. I'm happy to ask my questions here.
 21 I'm happy to flip with you.
 22 MR. INNES: It does not matter to me.
 23 MS. FUMERTON: I've never been on camera
 24 before, actually. Why don't I just stay here.
 25 It's going to be five minutes. If we get into a

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1 longer back and forth, I may be willing to
 2 change.
 3 THE VIDEOGRAPHER: Are you still on the
 4 record?
 5 MS. FUMERTON: Yeah, we're still on the
 6 record. Sorry. I'm just going to sit here.
 7 CROSS-EXAMINATION
 8 BY MS. FUMERTON:
 9 Q. Mr. Ducote, can you please take out
 10 Exhibit 9 that was shown to you by Mr. Innes
 11 earlier. Do you see that document?
 12 A. Yes.
 13 Q. Can you please take a minute to
 14 refamiliarize yourself with that?
 15 A. Okay.
 16 Q. And I believe that Mr. Innes had asked you a
 17 question earlier today about whether or not or how
 18 you could figure out what products were being
 19 considered as part of the statistics that are listed
 20 here. Do you recall that line of questioning?
 21 A. I do.
 22 Q. Okay. And I just want to point out at the
 23 top of the document, it states that: The current
 24 state pilot at 6028.
 25 Do you see that?

<p style="text-align: right;">Page 294</p> <p>1 A. Yes.</p> <p>2 Q. Could that give some information as to what</p> <p>3 products were being evaluated here?</p> <p>4 A. Yes.</p> <p>5 Q. And what information does that tell you?</p> <p>6 A. That tells me that it was controls, but</p> <p>7 non-Schedule II drugs.</p> <p>8 Q. Okay. So at the bottom, the line that</p> <p>9 Mr. Innes was talking about: Current time</p> <p>10 commitment, 22 alerts times eight minutes equals</p> <p>11 three hours per day.</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. And I think he was asking you questions</p> <p>15 about that eight minutes and whether that was the</p> <p>16 average time it took to clear an order. Is that</p> <p>17 correct?</p> <p>18 A. Yes.</p> <p>19 Q. And so now that we've looked at 6028, what</p> <p>20 products is that eight minutes referring to?</p> <p>21 A. That eight minutes is referring to products</p> <p>22 that were drugs of interest that were determined by</p> <p>23 VAWD, such as, like, albuterol or something of that</p> <p>24 nature and then control drugs that were Schedule III</p> <p>25 through Vs, things like alprazolam.</p>	<p style="text-align: right;">Page 296</p> <p>1 run a report specific to Schedule II opioids?</p> <p>2 A. I do not recall.</p> <p>3 MS. FUMERTON: I have no further questions.</p> <p>4 MR. INNES: Okay.</p> <p>5 THE VIDEOGRAPHER: That concludes today's</p> <p>6 deposition. Going off the record, the time is</p> <p>7 3:07.</p> <p>8 (Whereupon, the deposition concluded at</p> <p>9 3:07 p.m.)</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 295</p> <p>1 Q. Okay. And so in your e-mail, did you write</p> <p>2 to Mr. Stephenson anything about what the time</p> <p>3 commitment may be for the Schedule II facility,</p> <p>4 6045?</p> <p>5 A. Yes, I did.</p> <p>6 Q. And what did you tell him?</p> <p>7 A. I told him the average alert is expected to</p> <p>8 be higher than 6028 with additional scrutiny of</p> <p>9 orders, as those are C2 items.</p> <p>10 Q. Okay. And so you listed -- did you tell him</p> <p>11 anything else about the C2 facility?</p> <p>12 A. That it would take five additional hours a</p> <p>13 day of reviewing those orders, potentially.</p> <p>14 Q. Mr. Innes also asked you a question about</p> <p>15 various reports that you may have asked folks to run</p> <p>16 or that you may have had available to you. Do you</p> <p>17 recall that line of questioning?</p> <p>18 A. Yes.</p> <p>19 Q. Do you recall ever seeing or asking -- let</p> <p>20 me break the question up.</p> <p>21 Do you recall ever receiving a report that</p> <p>22 addressed specifically Schedule II opioids?</p> <p>23 MR. INNES: Objection to the form.</p> <p>24 A. No.</p> <p>25 Q. Do you recall ever requesting that somebody</p>	<p style="text-align: right;">Page 297</p> <p>1 CERTIFICATE</p> <p>2 I, SUSAN D. WASILEWSKI, Registered</p> <p>3 Professional Reporter, Certified Realtime Reporter,</p> <p>4 Certified Realtime Captioner, do hereby</p> <p>5 certify that, pursuant to notice, the deposition of</p> <p>6 CHAD DUCOTE was duly taken on Friday,</p> <p>7 November 16, 2018, at 8:04 a.m., before me.</p> <p>8 The said CHAD DUCOTE was duly sworn by me</p> <p>9 according to law to tell the truth, the whole truth</p> <p>10 and nothing but the truth and thereupon did testify</p> <p>11 as set forth in the above transcript of testimony.</p> <p>12 The testimony was taken down stenographically by me.</p> <p>13 I do further certify that the above deposition is</p> <p>14 full, complete, and a true record of all the</p> <p>15 testimony given by the said witness, and that a</p> <p>16 review of the transcript was requested.</p> <p>17</p> <p>18</p> <p>19 Susan D. Wasilewski, RPR, CRR, CCP, CMRS, FPR, CCR</p> <p>20 (The foregoing certification of this transcript does</p> <p>21 not apply to any reproduction of the same by any</p> <p>22 means, unless under the direct control and/or</p> <p>23 supervision of the certifying reporter.)</p> <p>24</p> <p>25</p>

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INSTRUCTIONS TO WITNESS

1

2

3

4 Please read your deposition over carefully

5 and make any necessary corrections. You should

6 state the reason in the appropriate space on the

7 errata sheet for any corrections that are made.

8

9 After doing so, please sign the errata sheet

10 and date it. It will be attached to your

11 deposition.

12

13 It is imperative that you return the

14 original errata sheet to the deposing attorney

15 within thirty (30) days of receipt of the deposition

16 transcript by you. If you fail to do so, the

17 deposition transcript may be deemed to be accurate

18 and may be used in court.

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2 E R R A T A

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4 PAGE LINE CHANGE

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ACKNOWLEDGMENT OF DEPONENT

1

2

3 I, _____, do hereby

4 acknowledge that I have read the foregoing pages, 1

5 through 300, and that the same is a correct

6 transcription of the answers given by me to the

7 questions therein propounded, except for the

8 corrections or changes in form or substance, if any,

9 noted in the attached Errata Sheet.

10

11

12 _____

13 CHAD DUCOTE DATE

14

15

16

17

18 Subscribed and sworn to before me this

19 ____ day of _____, 20____.

20 My Commission expires: _____

21

22 _____

23 Notary Public

24

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LAWYER'S NOTES

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